

**Proposal for a Directive of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy and transport sectors**

(2001/C 29 E/03)

(Text with EEA relevance)

COM(2000) 276 final/2 — 2000/0117(COD)

(Submitted by the Commission on 31 August 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure set out in Article 251 of the Treaty,

Whereas:

(1) Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors<sup>(1)</sup> was last amended by Directive 98/4/EC of the European Parliament and of the Council<sup>(2)</sup>. On the occasion of new amendments, which are necessary to respond to requests for simplification and modernisation made by contracting authorities and economic operators alike in their responses to the Green Paper adopted by the Commission on 27 November 1996<sup>(3)</sup>. In the interests of clarity, the Directive should therefore be recast.

(2) The procedures for the award of contracts which are applied by entities operating in the water, energy and transport sectors call for a coordination based on the requirements inferrable from Articles 14 [delete f.n.] 28 and 49 of the EC Treaty and from Article 97 of the Euratom Treaty, namely the principles of equality of treatment, of which the principle of non-discrimination is no more than a specific expression, mutual recognition, transparency and the opening-up of public procurement to competition. Whilst ensuring the application of those

principles, this coordination should establish a framework for sound commercial practice and should allow a maximum of flexibility.

(3) Community legislation, and in particular Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector<sup>(4)</sup> and Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector<sup>(5)</sup> are designed to introduce more competition between entities offering air transport services to the public. It is therefore not appropriate to include such entities in the scope of this Directive. In view of the competitive position of Community shipping, it would also be inappropriate to make the contracts awarded in this sector subject to the rules of this Directive.

(4) The scope of Directive 93/38/EEC covers, at present, certain contracts awarded by contracting entities operating in the telecommunications sector. A legislative framework, as mentioned in the fourth report on the implementation of the telecommunications regulations of 25 November 1998<sup>(6)</sup>, has been adopted to liberalise the telecommunications sector. One of its consequences has been the introduction of effective competition, both *de jure* and *de facto*, in this sector. For information purposes, and in the light of this situation, the Commission has published a list of telecommunications services<sup>(7)</sup> which may already be excluded from the scope of that Directive by virtue of Article 8 thereof. Further progress has been confirmed in the fifth report on the implementation of telecommunications regulation of 10 November 1999<sup>(8)</sup>. It is therefore no longer necessary to regulate purchases by entities operating in this sector.

(5) It is therefore no longer appropriate to maintain the Advisory committee on telecommunications procurement, set up by Council Directive 90/531/EEC<sup>(9)</sup>.

<sup>(1)</sup> OJ L 199, 9.8.1993, p. 84.

<sup>(2)</sup> OJ L 101, 1.4.1998, p. 1.

<sup>(3)</sup> COM(96) 583 final.

<sup>(4)</sup> OJ L 374, 31.12.1987, p. 1; Regulation as last amended by Regulation (EEC) No 2410/92 (OJ L 240, 28.4.1992, p. 18).

<sup>(5)</sup> OJ L 374, 31.12.1987, p. 9; Regulation as last amended by the Act of Accession of Austria, Finland and Sweden.

<sup>(6)</sup> COM(1998) 594 final.

<sup>(7)</sup> OJ L 156, 3.6.1999, p. 3.

<sup>(8)</sup> COM(1999) 537 final.

<sup>(9)</sup> OJ L 297, 29.10.1990, p. 1.

- (6) Nevertheless, it is appropriate to continue to monitor developments on the telecommunications market and that it should reconsider the situation if it is established that there is no longer effective competition in that sector.
- (7) Directive 93/38/EEC excludes from its scope purchases of voice telephony, telex, mobile telephone, paging and satellite services. Those exclusions were introduced to take account of the fact that the services in question could frequently be provided only by one service provider in a given geographical area because of the absence of effective competition and the existence of special or exclusive rights. The introduction of effective competition in the telecommunications sector removes the justification for these exclusions. It is therefore necessary to include the procurement of such telecommunications services in the scope of this Directive.
- (8) The need to ensure a real opening-up of the market and a fair balance in the application of procurement rules in the water, energy and transport sectors requires that the entities to be covered must be identified on a basis other than by reference to their legal status. It has to be ensured, therefore, that the equal treatment of contracting entities operating in the public sector and those operating in the private sector is not prejudiced. It is also necessary to ensure, in keeping with Article 295 of the Treaty, that the rules governing the system of property ownership in Member States are not prejudiced.
- (9) One major reason for the introduction of rules coordinating procedures for the award of contracts in these areas is the variety of ways in which national authorities can influence the behaviour of these entities, including participation in their capital and representation in the entities' administrative, managerial or supervisory bodies.
- (10) Another main reason why it is necessary to coordinate procurement procedures applied by the entities operating in these sectors is the closed nature of the markets in which they operate, due to the existence of special or exclusive rights granted by the national authorities concerning the supply to, provision or operation of networks for providing the service concerned.
- (11) There has to be an appropriate definition of the concept of special and exclusive rights. The consequence of the definition is that the fact that, for the purpose of constructing the networks or the port or airport facilities, an entity may take advantage of a procedure for the expropriation of property, or for its bearing a right of way, or may place network equipment on, under or over the public highway shall not in itself constitute exclusive or special rights within the meaning of this Directive. Nor does the fact that an entity supplies with drinking water, electricity, gas or heat a network which is itself operated by an entity enjoying special or exclusive rights granted by a competent authority of the Member State concerned constitute in itself an exclusive or special right within the meaning of this Directive.
- (12) This Directive should apply neither to contracts intended to permit the provision of a service referred to by Articles 3 to 6 of this Directive nor to design contests organised for the pursuit of such an activity if, in the Member State in which this activity is to be carried out, it is directly exposed to competition on markets to which access is not limited. It is therefore appropriate to introduce a mechanism, applicable to all sectors covered by this Directive, that will enable the effects of current or future liberalisation to be taken into account. Such a mechanism must provide legal certainty for the entities concerned, as well as an appropriate decision-making process, particularly as regards the timeframe available to the Commission for reaching its decision concerning the possible exemption of a specific sector.
- (13) Direct exposure to competition must be assessed on the basis of objective criteria, taking account of the specific characteristics of the sector concerned. The implementation and application of appropriate Community legislation liberalising a given sector, or a part of it, will be considered to provide sufficient grounds for assuming there is free access to the market in question. Such appropriate legislation should be identified in an annex which can be updated by the Commission. Where access to a given market is not liberalised by Community legislation, the Member States must demonstrate that, *de jure* and *de facto*, such access is free.
- (14) Where an activity is carried out by a public authority within the meaning of this Directive, the competitive pressure resulting from the fact that the activity in question is directly exposed to competition on markets to which access is not limited might not be sufficient to ensure that decisions taken under contract award procedures are based exclusively on economic considerations. It is therefore appropriate that contracts awarded by public authorities in such situations should continue to be governed by this Directive. The general mechanism for exemption should therefore not apply to activities carried out by public authorities.

- (15) To forestall the existence of a multitude of specific arrangements applicable to certain sectors only, the current special arrangements created by Article 3 of Directive 93/38/EEC and Article 12 of European Parliament and Council Directive 94/22/EC<sup>(1)</sup> governing entities exploiting a geographical area for the purpose of exploring for or extracting oil, gas, coal or other solid fuels should be replaced by the general mechanism allowing for exemption of sectors directly exposed to competition. It has to be ensured, however, that this will be without prejudice to Commission Decisions 93/676/EEC of 10 December 1993 establishing that the exploitation of geographical areas for the purpose of exploring for or extracting oil or gas does not constitute in the Netherlands an activity defined by Article 2(2)(b)(i) of Council Directive 90/531/EEC and that entities carrying on such an activity are not to be considered in the Netherlands as operating under special or exclusive rights within the meaning of Article 2(3)(b) of the Directive<sup>(2)</sup> and 97/367/EC of 30 May 1997 establishing that the exploitation of geographical areas for the purpose of exploring for or extracting oil or gas does not constitute in the United Kingdom an activity defined by Article 2(2)(b)(i) of Council Directive 93/38/EEC and that entities carrying on such an activity are not to be considered in the United Kingdom as operating under special or exclusive rights within the meaning of Article 2(3)(b) of the Directive<sup>(3)</sup>.
- (16) Certain entities providing bus transport services to the public, already excluded from the scope of Directive 93/38/EEC, should also be excluded from the scope of this Directive. Furthermore, in order to forestall the existence of a multitude of specific arrangements applying to certain sectors only, the general mechanism must, if it is to take the effects of liberalisation into account, also apply to bus transport services if these services are provided by entities which, at the time of entry into force of this Directive, are still subject to Directive 93/38/EEC.
- (17) It is appropriate that the contracting entities apply common procurement procedures in respect of their activities relating to water and that these rules also apply where public authorities within the meaning of this Directive award contracts in respect of their projects in the field of hydraulic engineering, irrigation, land drainage or the disposal and treatment of sewage. However, procurement rules of the type proposed for supplies of goods are inappropriate for purchases of water, given the need to procure water from sources near the area in which it will be used.
- (18) Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the Agreements reached in the Uruguay Round multilateral negotiations (1986 to 1994)<sup>(4)</sup>, approved in particular the Agreement on Government Procurement, referred to hereinafter as the 'Agreement', the aim of which is to establish a multilateral framework of balanced rights and obligations relating to public contracts with the aim of achieving the liberalisation and expansion of world trade. In view of the international rights and commitments devolving on the Community as a result of the acceptance of the Agreement, the arrangements to be applied to tenderers and products from signatory third countries are those defined by the Agreement. This Agreement does not have direct effect. The contracting authorities covered by the Agreement which comply with this Directive and which apply the same provisions as regards economic operators of third countries which are signatories to the Agreement must therefore be in conformity with the Agreement. It is also appropriate that this Directive should guarantee for Community economic operators conditions for participation in public procurement which are just as favourable as those reserved for economic operators of third countries which are signatories to the Agreement.
- (19) Without prejudice to the international commitments of the Community, it is necessary to simplify the implementation of this Directive, particularly simplifying the thresholds and by rendering applicable to all contracting entities, regardless of the sector in which they operate, the provisions regarding the information to be given to participants concerning decisions taken in relation to contract award procedures and the results thereof. Furthermore, in view of Monetary Union, it is appropriate to set thresholds expressed in euro. Consequently, thresholds should be set, in euro, in such a way as to simplify the application of these provisions while at the same time ensuring compliance with the thresholds laid down in the Agreement, which are expressed in Special Drawing Rights. To this end, the thresholds expressed in euro should be periodically revised in order to adjust them, where necessary, in line with possible negative variations in the value of the euro in relation to the Special Drawing Right. In addition, the thresholds applicable to design contests should be identical to those applicable to service contracts.
- (20) This Directive should not apply to procurement contracts which are declared secret or may affect basic State security interests or are concluded according to other rules set up by existing international agreements or international organisations. Nor should this Directive apply to design contests governed by different procedural rules laid down by existing international agreements or by international organisations.

(1) OJ L 164, 30.6.1994, p. 3.

(2) OJ L 316, 17.12.1993, p. 41.

(3) OJ L 156, 13.6.1997, p. 55.

(4) OJ L 336, 23.12.1994, p. 1.

- (21) Obstacles to the free provision of services need to be avoided. Therefore, service providers may be either natural or legal persons. This Directive should not, however, prejudice the application, at national level, of rules concerning the conditions for the pursuit of an activity or a profession, provided that they are compatible with Community law.
- (22) This Directive should cover the provision of services only where based on contracts: provision of services on other bases, such as law or regulations, or employment contracts, is therefore not covered.
- (23) Pursuant to Article 163 of the Treaty, the encouragement of research and development is a means of strengthening the scientific and technological basis of European industry, and the opening-up of public procurement contributes to this end. This Directive should not cover the cofinancing of research and development programmes: research and development contracts other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority, are not therefore covered by this Directive.
- (24) Contracts for the acquisition or rental of land, existing buildings or other immovable property have particular characteristics, which make the application of procurement rules inappropriate.
- (25) Arbitration and conciliation services are usually provided by bodies or individuals designated or selected in a manner which cannot be governed by procurement rules.
- (26) The service contracts referred to in this Directive should not include contracts for the issue, purchase, sale or transfer of securities or other financial instruments.
- (27) Service contracts having a single designated source of supply may, under certain conditions, be fully or partly exempted from this Directive.
- (28) It is appropriate to exclude certain service contracts awarded to an affiliated undertaking having as its principal activity, with respect to services, the provision of such services to the group of which it is part, rather than the offering of its services on the market.
- (29) Measures to remove obstacles to cross-frontier trade in electricity have been or are in the course of being introduced, and this is also the case in other parts of the energy sector. Procurement rules of the type applied to supplies of goods make it possible to overcome existing obstacles to the purchases of energy and fuels in the energy sector. As a result, it is no longer appropriate to exclude these purchases from the scope of this Directive.
- (30) The field of services is best described, for the purpose of application of the rules of this Directive and for monitoring purposes, by subdividing it into categories corresponding to particular headings of a common nomenclature and to group them in two Annexes, XVI A and XVI B, according to the regime which applies to them. For services covered by Annex XVI B, the applicable provisions of this Directive should not prejudice the application of Community rules specific to such services.
- (31) As regards service contracts, full application of this Directive must be limited, for a transitional period, to contracts where its provisions will permit the full potential for increased cross-frontier trade to be realised. Contracts for other services need to be monitored during this transitional period before a decision is taken on the full application of this Directive. In this respect, the mechanism for such monitoring needs to be defined. This mechanism must, at the same time, enable interested parties to have access to the relevant information.
- (32) A contract performance condition is compatible with the Directive provided that it does not directly or indirectly discriminate against tenderers from other Member States and provided that it is indicated in the contract notice. Such a condition may, among other things, have as its purpose the favouring of employment for excluded or disadvantaged persons or the reduction of unemployment.
- (33) Contracting entities may seek or accept advice which may be used in the preparation of specifications for a specific procurement, provided that such advice does not have the effect of precluding competition.
- (34) The technical specifications drawn up by public procurers must allow public procurement to be opened up to competition. To this end, it must be possible to submit bids which reflect the diversity of possible technical solutions. In order to do this, it has to be possible, on the one hand, to draw up technical specifications in terms of functional performance and requirements; on the other hand, where reference is made to a European standard — or, where no such standard exists, to a national standard — other, equivalent solutions must be accepted. To demonstrate equivalence, tenderers should be permitted to use any form of evidence. Reference to specifications specifying a particular origin must remain the exception.

- (35) Taking account of new information and telecommunications technologies and the simplifications they can bring about with regard to the advertising of contracts and in terms of the efficiency and transparency of award procedures, it is appropriate to put the use of electronic means on an equal footing with conventional means of communicating and exchanging information. Where at all possible, the means and the technology chosen must be compatible with the technologies used in the other Member States.
- (36) The use of electronic means leads to savings in time. As a result, provision should be made for reducing the minimum periods where electronic means are used, subject however to the condition that they are compatible with the specific mode of transmission envisaged at Community level. An additional reduction could be considered if the contracting entity simultaneously makes the entire specifications available on the Internet, thereby offering free and direct access to this information. However, it has to be ensured that the cumulative effect of reductions of time-limits does not lead to excessively short deadlines, which could jeopardise the objective of opening up public procurement in the internal market.
- (37) Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures<sup>(1)</sup> and Directive .../.../EC of ... [data] on certain legal aspects of information society services, in particular electronic commerce, in the internal market will apply to electronic information transmission in the context of this Directive.
- (38) Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time-limits will apply to the calculation of the time-limits<sup>(2)</sup> will apply to the calculation of the time-limits contained in this Directive.
- (39) It needs to be clarified that contracting entities which establish selection criteria must do so in accordance with objective rules and criteria, just as the selection criteria in restricted and negotiated procedures have to be objective.
- (40) The contract must also be awarded on the basis of objective criteria which ensure compliance with the principles of non-discrimination and equality of treatment and which guarantee that tenders are assessed in conditions of effective competition. As a result, it is appropriate to allow the application of two award criteria only: 'the lowest price' and 'the most economically advantageous tender'.
- (41) In order to ensure compliance with the principle of equality of treatment in awarding contracts, it is appropriate to ensure and reinforce the necessary transparency as regards the criteria chosen to identify the most economically advantageous tender. At the earliest possible stage in the contract award procedure, therefore, contracting entities should be obliged to indicate the relative weighting given to each of these criteria. The contracting entity should be allowed to confine itself to setting out a simple descending order of importance attaching to the criteria.
- (42) The award criteria should not affect the application of national provisions on the remuneration of certain services, such as, for example, the services performed by architects or lawyers.
- (43) The relevant Community rules on mutual recognition of diplomas, certificates or other evidence of formal qualifications apply when evidence of a particular qualification is required for participation in a procurement procedure or a design contest.
- (44) Certain technical conditions, and in particular those concerning notices and statistical reports, as well as the nomenclature used and the conditions of reference to that nomenclature will need to be adopted and amended in the light of changing technical requirements. It is, therefore, appropriate to put in place a flexible and rapid adoption procedure for this purpose. In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(3)</sup>, the measures necessary for implementation of this Directive should be taken in accordance with the advisory procedure in Article 3 of the Decision.
- (45) In order to favour the access of small and medium-sized undertakings to the public procurement market, it is advisable to include provisions on sub-contracting.
- (46) This Directive should be without prejudice to the existing international obligations of the Community or of the Member States and should not prejudice the application of the provisions of the Treaty, in particular Articles 81 and 86 thereof.
- (47) This Directive should not prejudice the time-limits set out in Annex XXII, within which Member States are required to comply with Directive 93/38/EEC and its successive amending acts,

HAVE ADOPTED THIS DIRECTIVE:

#### TITLE I

### GENERAL PROVISIONS APPLICABLE TO CONTRACTS AND DESIGN CONTESTS

#### CHAPTER I

#### DEFINITIONS

##### Article 1

#### Definitions

1. For the purposes of this Directive, the definitions set out in paragraphs 2 to 12 shall apply.

<sup>(1)</sup> OJ L 13, 19.1.2000, p. 12.

<sup>(2)</sup> OJ L 124, 8.6.1971, p. 1.

<sup>(3)</sup> OJ L 184, 17.1.1999, p. 23.

2. 'Supply, works and service contracts' means contracts for pecuniary interest concluded in writing between one of the contracting entities referred to in Article 2(2), and one or more suppliers, contractors or service providers, having as their object:

- (a) in the case of supply contracts, the purchase, lease, rental or hire-purchase of products, with or without the option to buy;
- (b) in the case of works contracts, either the execution, or both the design and execution, or the realisation, by whatever means, of building or civil engineering activities referred to in Annex XI: these contracts may, in addition, cover supplies and services necessary for their execution;
- (c) in the case of service contracts, contracts concerning services mentioned in Annex XVI.

3. A contract intended to cover both products and services within the meaning of Annex XVI shall be considered to be a 'supply contract' if the value of the products in question exceeds that of the services covered by the contract.

A contract intended to cover the delivery of the products and, in addition, siting and installation operations within the meaning of this Directive, shall be considered to be a 'supply contract'.

4. A contract relating to one or more activities referred to in point (b) of paragraph 2 and to the supply of products shall be considered to be a 'works contract' if these activities do not comprise siting and installation work only.

A contract whose object expressly comprises the performance of one or more activities referred to in point (b) of paragraph 2 shall be considered to be a 'works contract' even if this object also includes the provision of services within the meaning of Annex XVI, provided that these services are necessary for the performance of the contract in question.

5. A contract intended to cover only services within the meaning of Annex XVI and including, by way of addition to the principal object of the contract, one or more activities referred to in point (b) of paragraph 2, shall be considered to be a 'service contract'.

6. A 'contractor', 'supplier' or 'service provider' means either a natural or legal person, or a contracting entity within the meaning of Article 2(2)(a) or (b), or a group of such persons and/or entities.

An 'economic operator' means either a supplier, or a service provider or a contractor.

A 'tenderer' means an economic operator who submits a tender, and a 'candidate' means one who has sought an invitation to take part in a restricted or negotiated procedure.

7. A 'framework agreement' means an agreement between one of the contracting entities referred to in Article 2(2) and

one or more economic operators, the purpose of which is to establish the terms, in particular with regard to the prices and, where appropriate, the quantity envisaged, governing the contracts to be awarded during a given period.

8. 'Open, restricted and negotiated procedures' means the procurement procedures applied by contracting entities, whereby:

- (a) in the case of open procedures, any economic operator may submit tenders;
- (b) in the case of restricted procedures, only candidates invited by the contracting entity may submit tenders;
- (c) in the case of negotiated procedures, the contracting entity consults economic operators of its choice and negotiates the terms of the contract with one or more of them.

9. 'Design contests' means the national procedures which enable the contracting entity to acquire, mainly in the fields of architecture, engineering or data processing, a plan or design selected by a jury after having been put out to competition, with or without the award of prizes.

10. 'Electronic means' means the use of electronic equipment for the processing (including digital compression) and storage of data transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

11. '(In) writing' means any combination of words or figures that can be read, reproduced and subsequently communicated. Such combination may include information transmitted and stored by electronic means.

12. The Common Procurement Vocabulary (hereinafter 'CPV'), adopted by Council and Parliament Regulation (EC) No .../... means the reference nomenclature applying to public procurement contracts.

## CHAPTER II

### SCOPE: DEFINITION OF THE ACTIVITIES AND ENTITIES COVERED

#### Section 1

#### Entities covered

#### Article 2

#### Contracting entities

- 1. For the purposes of this Directive,
  - (a) 'Public authorities' means the State, regional or local authorities, bodies governed by public law, or associations formed by one or more of such authorities or bodies governed by public law.

'A body governed by public law' shall be understood to mean any body which:

- is established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character,
  - has legal personality, and
  - is financed for the most part by the State, or regional or local authorities, or other bodies governed by public law, or is subject to management supervision by those bodies, or has an administrative, managerial or supervisory board more than half of whose members are appointed by the State, regional or local authorities, or other bodies governed by public law.
- (b) 'Public undertaking' means any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it.

A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:

- hold the majority of the undertaking's subscribed capital, or
  - control the majority of the votes attaching to shares issued by the undertaking, or
  - can appoint more than half of the undertaking's administrative, management or supervisory body.
2. This Directive shall apply to contracting entities:
- (a) which are public authorities or public undertakings and which pursue one of the activities referred to in Articles 3 to 6;
  - (b) which, when they are not public authorities or public undertakings, have as one of their activities any of the activities referred to in Articles 3 to 6, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of a Member State.
3. For the purposes of this Directive, special or exclusive rights mean rights which arise from a grant made by the competent authorities of a Member State by way of any legislative, regulatory or administrative provision the effect of which is to limit the exercise of activities defined in Articles 3 to 6 to one or more entities, and which substantially affects the ability of other undertakings to carry out such activity on the same territory under substantially equivalent conditions.

## Section 2

Activities referred to

### Article 3

#### Provisions relating to gas, heat and electricity

1. As far as gas and heat are concerned, this Directive shall apply to the following activities:

- (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat; or
- (b) the supply of gas or heat to such networks.

2. The supply of gas or heat to networks which provide a service to the public by a contracting entity other than a public authority shall not be considered a relevant activity within the meaning of paragraph 1 where:

- (a) the production of gas or heat by the entity concerned is the unavoidable consequence of carrying on an activity other than those referred to in paragraphs 1 or 3 of this Article or in Articles 4, 5 and 6; and
- (b) supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the entity's turnover having regard to the average for the preceding three years, including the current year.

3. As far as electricity is concerned, this Directive shall apply to the following activities:

- (a) the provision or operation of fixed networks serving to provide a service to the public in connection with the production, transport or distribution of electricity; or
- (b) the supply of electricity to such networks.

4. The supply of electricity to networks which provide a service to the public by a contracting entity other than a public authority shall not be considered a relevant activity within the meaning of paragraph 3 where:

- (a) the production of electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than those referred to in paragraphs 1 or 3 of this Article or in Articles 4, 5 and 6; and
- (b) supply to the public network depends only on the entity's own consumption and has not exceeded 30 % of the entity's total production of energy, having regard to the average for the preceding three years, including the current year.

*Article 4***Provisions relating to water**

1. This Directive shall apply to the following activities:
  - (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water; or
  - (b) the supply of drinking water to such networks.
2. This Directive shall also apply to contracts or design contests awarded or organised by entities which pursue an activity referred to in paragraph 1 and which:
  - (a) are connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations, or
  - (b) are connected with the disposal or treatment of sewage.
3. The supply of drinking water to networks which provide a service to the public by a contracting entity other than a public authority shall not be considered a relevant activity within the meaning of paragraph 1 where:
  - (a) the production of drinking water by the entity concerned takes place because its consumption is necessary for carrying out an activity other than those referred to in Articles 3, 4, 5 and 6; and
  - (b) supply to the public network depends only on the entity's own consumption and has not exceeded 30 % of the entity's total production of drinking water, having regard to the average for the last three years, including the current year.

*Article 5***Provisions relating to transport services**

1. This Directive shall apply to activities relating to the operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.

As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of a Member State, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.

2. The provision of bus transport services to the public shall not be considered an activity for the purposes of paragraph 1 where, within 12 months after the entry into force of this Directive at the latest, other entities are free to provide those services, either in general or in a particular geographical area, under the same conditions as the contracting entities.

*Article 6***Provisions relating to the exploration for, or extraction of, oil, gas, coal or other solid fuels, as well as ports and airports**

This Directive shall apply to activities seeking to exploit a geographical area for the purpose of:

- (a) exploring for or extracting oil, gas, coal or other solid fuels, or
- (b) the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.

*Article 7***List of contracting entities**

The non-exhaustive lists of contracting entities within the meaning of this Directive are contained in Annexes I to IX.

*Article 8***Contracts covering several activities**

1. A contract which is intended to cover several activities and which cannot be split up shall be subject to the rules applicable to the activity for which it is principally intended.
2. If one of the activities for which the contract is intended is subject to this Directive and the other is not subject to this Directive nor to Directive .../EC [on the coordination of the procedures for the award of public supply contracts, public service contracts and public works contracts], and if it is objectively impossible to determine which activity the contract is principally intended for, the contract shall be awarded in accordance with this Directive.
3. If one of the activities for which the contract is intended is subject to this Directive and the other to Directive .../EC [on the coordination of the procedures for the award of public supply contracts, public service contracts and public works contracts], and if it is objectively impossible to determine which activity the contract is principally intended for, the contract shall be awarded in accordance with Directive .../EC [on the coordination of the procedures for the award of public supply contracts, public service contracts and public works contracts].

## CHAPTER III

**GENERAL PRINCIPLES***Article 9***Equality of treatment, prohibition of discrimination; transparency**

Contracting entities shall take all necessary steps to ensure compliance with the principles of equality of treatment, non-discrimination and transparency.

## TITLE II

**RULES APPLICABLE TO CONTRACTS**

## CHAPTER I

**GENERAL PROVISIONS***Article 10***Groupings of economic operators**

1. Tenders may be submitted and negotiations conducted by groupings of economic operators. The conversion of such groupings into a specific legal form shall not be required for the purpose of their submitting a tender or negotiating, but the grouping selected may be required so to convert itself once it has been awarded the contract, where such conversion is necessary for the proper performance of the contract.

2. Candidates or tenderers who, under the law of the Member State in which they are established, are entitled to provide the relevant service shall not be rejected on the sole ground that under the law of the Member State in which the contract is awarded they would have been required to be either a natural or a legal person.

3. However, legal persons may be required to indicate, in the tender or the request for participation, the names and relevant professional qualifications of the staff to be responsible for the performance of the relevant service.

*Article 11***Conditions set out in Agreements concluded within the World Trade Organisation**

For the purposes of the award of contracts by contracting authorities, Member States shall apply in their relations conditions as favourable as those which they grant to third countries in implementation of the Agreement on government procurement, concluded in the framework of the Uruguay Round multilateral negotiations, hereinafter referred to as 'the Agreement'. The Member States shall to this end consult each other within the Advisory Committee for Public Contracts on the measures to be taken pursuant to the Agreement.

*Article 12***Confidentiality**

1. During the phase for the provision of technical specifications to interested economic operators, and during the phase for the qualification and selection of economic operators and for the award of contracts, contracting entities may impose requirements with a view to protecting the confidential nature of information which they make available.

2. This Directive shall not limit the right of economic operators to require a contracting entity, in conformity with

national law, to respect the confidential nature of information which they make available.

*Article 13***Framework agreements**

1. Contracting entities may regard a framework agreement as a contract within the meaning of Article 1(2) and award it in accordance with this Directive.

2. Where contracting entities have awarded a framework agreement in accordance with this Directive, they may avail themselves of point (i) of Article 36(3) when awarding contracts based on that framework agreement.

3. Where a framework agreement has not been awarded in accordance with this Directive, contracting entities may not avail themselves of point (i) of Article 36(3).

4. Contracting entities may not misuse framework agreements in order to hinder, limit or distort competition.

## CHAPTER II

**SCOPE: THRESHOLDS AND EXCLUSION PROVISIONS***Article 14***Scope**

This Directive shall apply where contracting entities as referred to in Article 2(2) award works, supply or service contracts whose estimated values, net of value added tax (VAT), are equal to or greater than the thresholds set out in Article 15, unless the exclusions under Articles 20 to 27 are applicable or a decision has been taken under Article 29 regarding the exercise of the particular activity in the Member State concerned.

## Section 1

## Thresholds

*Subsection 1***Amounts***Article 15***Contracts**

This Directive shall apply to contracts where their estimated value, net of VAT, is equal to or greater than:

(a) EUR 400 000 in the case of supply and service contracts;

(b) EUR 5 300 000 in the case of works contracts.

*Subsection 2***Methods of calculating the value of contracts and framework agreements***Article 16***General rules**

1. Contracting entities may not circumvent this Directive by splitting works or contracts or by using special methods of calculating the value of contracts.

2. The basis for calculating the value of a framework agreement shall be the estimated maximum value of all the contracts envisaged for the period in question.

*Article 17***Calculating the value of works contracts**

1. For the purposes of Article 15, contracting entities shall include in the estimated value of a works contract the value of any supplies or services necessary for the execution of the works which they make available to the contractor.

2. The value of supplies or services which are not necessary for the execution of a particular works contract may not be added to that of the works contract when doing so would result in removing the procurement of those supplies or services from the scope of this Directive.

3. The basis for calculating the value of a works contract for the purposes of Article 15 shall be the total value of the work. 'Work' shall mean the result of building and civil engineering activities, taken as a whole, which are intended to fulfil an economic and technical function by themselves.

4. Where a scheme of work is divided into several lots, the value of each lot shall be taken into account when assessing the value referred to in Article 15. Where the aggregate value of the lots equals or exceeds the value laid down in Article 15, that paragraph shall apply to all the lots.

However, in the case of works contracts, contracting entities may derogate from Article 15 in respect of lots whose estimated value net of VAT is less than 1 million euro, provided that the aggregate value of those lots does not exceed 20 % of the overall value of the lots.

*Article 18***Calculating the value of supply contracts**

1. Where a supply is divided into several lots, the value of each lot shall be taken into account when assessing the value referred to in Article 15. Where the aggregate value of the lots equals or exceeds the value laid down in Article 15, that Article shall apply to all the lots.

2. Where a proposed supply contract expressly provides for options, the basis for calculating the estimated contract value shall be the highest possible total of the purchase, lease, rental, or hire-purchase permissible, inclusive of the options.

3. In the case of a procurement of supplies over a given period by means of a series of contracts to be awarded to one or more suppliers, or of contracts which are to be renewed, the contract value shall be calculated on the basis of:

(a) the total value of contracts with similar characteristics which were awarded over the previous financial year or 12 months, adjusted where possible to reflect anticipated changes in quantity or value over the subsequent 12 months; or

(b) the aggregate value of contracts to be awarded during the 12 months following the first award or during the whole term of the contract, where this is longer than 12 months.

4. In the case of supply contracts for lease, rental or hire-purchase, the value to be used as the basis for calculating the contract value shall be:

(a) in the case of fixed-term contracts, where their term is 12 months or less, the estimated total value for the contract's duration, or, where their term exceeds 12 months, the contract's total value including the estimated residual value;

(b) in the case of contracts for an indefinite period or in cases where there is doubt as to the duration of the contracts, the anticipated total instalments to be paid in the first four years.

5. The basis for calculating the estimated value of a contract including both supplies and services shall be the total value of the supplies and services, regardless of their respective shares. The calculation shall include the value of the siting and installation operations.

*Article 19***Calculating the value of service contracts**

1. For the purposes of calculating the estimated amount of a service contract, the contracting entity shall include the total remuneration of the service provider, taking account of the provisions set out in paragraphs 2 to 7.

2. Where a service is divided into several lots, the value of each lot shall be taken into account when assessing the value referred to in Article 15. Where the aggregate value of the lots equals or exceeds the value laid down in Article 15, that Article shall apply to all the lots.

3. Where a proposed service contract specifically provides for options, the basis for calculating the estimated contract value shall be the highest possible total of the purchase, lease, rental, or hire-purchase permissible, inclusive of the options.

4. In the case of a procurement of services over a given period by means of a series of contracts to be awarded to one or more service providers, or of contracts which are to be renewed, the contract value shall be calculated on the basis of:

- (a) the total value of contracts with similar characteristics which were awarded over the previous financial year or 12 months, adjusted where possible for anticipated changes in quantity or value over the subsequent 12 months; or
- (b) the aggregate value of contracts to be awarded during the 12 months following the first award or during the whole term of the contract, where this is longer than 12 months.

5. The basis for calculating the estimated value of a contract including both supplies and services shall be the total value of the supplies and services, regardless of their respective shares. The calculation shall include the value of the siting and installation operations.

6. For the purposes of calculating the estimated contract amount of financial services, the following amounts shall be taken into account:

- (a) the premium payable, in the case of insurance services;
- (b) fees, commissions, interest and other modes of remuneration, in the case of banking and other financial services;
- (c) fees or commissions, in the case of contracts involving design tasks.

7. In the case of service contracts which do not indicate a total cost, the value to be used as the basis for calculating the estimated contract value shall be:

- (a) in the case of fixed-term contracts, where their term is 48 months or less, the total contract value for its duration;
- (b) in the case of contracts of indefinite duration or with a term of more than 48 months, the monthly value multiplied by 48.

## Section 2

Contracts which are excluded or are subject to special arrangements

### Subsection 1

**Exclusions applicable to all contracting entities and to all types of contract**

### Article 20

**Contracts awarded for purposes of resale or lease to third parties**

1. This Directive shall not apply to contracts awarded for purposes of resale or lease to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or lease the subject of such contracts, and other entities are free to sell or lease it under the same conditions as the contracting entity.

2. The contracting entities shall notify the Commission at its request of all the categories of products or activities which they regard as excluded under paragraph 1. The Commission may periodically publish, for information purposes, lists of the categories of products and activities which it considers to be covered by this exclusion in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects that the contracting entities may point out when forwarding information.

### Article 21

**Contracts awarded for purposes other than the pursuit of an activity covered or for the pursuit of such an activity in a third country**

1. This Directive shall not apply to contracts which the contracting entities award for purposes other than the pursuit of their activities as described in Articles 3 to 6 or for the pursuit of such activities in a third country, in conditions not involving the physical use of a network or geographical area within the Community.

2. The contracting entities shall notify the Commission at its request of any activities which they regard as excluded under paragraph 1. The Commission may periodically publish, for information purposes, lists of the categories of activities which it considers to be covered by this exclusion in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects that the contracting entities may point out when forwarding this information.

### Article 22

**Contracts which are secret or require particular security measures**

This Directive shall not apply to contracts when they are declared to be secret by a Member State, when their execution must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned, or when the protection of the basic security interests of that State so requires.

### Article 23

**Contracts awarded pursuant to international rules**

This Directive shall not apply to contracts governed by different procedural rules and awarded:

- (a) pursuant to an international agreement concluded in accordance with the Treaty between a Member State and one or more third countries and relating to supplies, works, services or design contests intended for the joint implementation or exploitation of a project by the signatory States; every agreement shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts;

- (b) to undertakings in a Member State or a third country pursuant to an international agreement relating to the stationing of troops;
- (c) pursuant to the particular procedure of an international organisation.

*Subsection 2*

**Exclusions applicable to all contracting entities, but to service contracts only**

*Article 24*

**Contracts relating to certain services excluded from the scope**

This Directive shall not apply to:

- (a) contracts for the acquisition or rental, by whatever financial means, of land, existing buildings or of other immovable property or concerning rights therein; nevertheless, financial service contracts concluded at the same time as, before, or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive;
- (b) contracts for arbitration and conciliation services;
- (c) contracts for the issue, sale, purchase or transfer of securities or other financial instruments;
- (d) employment contracts;
- (e) research and development service contracts other than those where the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting entity.

*Article 25*

**Service contracts awarded on the basis of an exclusive right**

This Directive shall not apply to service contracts awarded to an entity which is itself a public authority within the meaning of point (a) of Article 2(1) on the basis of an exclusive right which it enjoys pursuant to a published law, regulation or administrative provision which is compatible with the Treaty.

*Article 26*

**Service contracts awarded to an affiliated undertaking or to a contracting entity forming part of a joint venture**

1. This Directive shall not apply to service contracts which:

- (a) a contracting entity awards to an affiliated undertaking;

- (b) are awarded by a joint venture formed by a number of contracting entities for the purpose of carrying on activities within the meaning of Articles 3, 4, 5 or 6 to one of those contracting entities or to an undertaking which is affiliated with one of these contracting entities,

provided that at least 80 % of the average turnover of that undertaking with respect to services arising within the Community for the preceding three years derives from the provision of such services to undertakings with which it is affiliated.

Where more than one undertaking affiliated with the contracting entity provides the same service or similar services, the total turnover in the Community deriving from the provision of services by those undertakings shall be taken into account.

2. For the purposes of this Article, 'affiliated undertaking' means any undertaking the annual accounts of which are consolidated with those of the contracting entity in accordance with the requirements of the Seventh Council Directive 83/349/EEC<sup>(1)</sup>, or, in the case of entities not subject to that Directive, any undertaking over which the contracting entity may exercise, directly or indirectly, a dominant influence within the meaning of point (b) of Article 2(1) or which may exercise a dominant influence over the contracting entity or which, in common with the contracting entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

3. The contracting entities shall notify to the Commission, at its request, the following information regarding the application of the provisions of paragraph 1:

- (a) the names of the undertakings concerned,
- (b) the nature and value of the service contracts involved,
- (c) such proof as may be deemed necessary by the Commission that the relationship between the undertaking to which the contracts are awarded and the contracting entity complies with the requirements of this Article.

*Subsection 3*

**Exclusions applicable to certain contracting entities only**

*Article 27*

**Contracts awarded by certain contracting entities for the purchase of water**

1. This Directive shall not apply to contracts which contracting entities engaged in the activity referred to in Annex I award for the purchase of water.

2. The Council shall re-examine the provisions of paragraph 1 when it has before it a report from the Commission together with appropriate proposals.

<sup>(1)</sup> OJ L 193, 18.7.1983, p. 1. Directive as last amended by Directive 90/605/EEC (OJ L 317, 16.11.1990, p. 60).

### Article 28

#### Contracts subject to special arrangements

The Netherlands and the United Kingdom shall ensure, by way of the conditions of authorisation or other appropriate measures, that any entity operating in the sectors mentioned in Decisions 93/676/EEC and 97/367/EC:

- (a) observes the principles of non-discrimination and competitive procurement in respect of the award of supplies, works and service contracts, in particular as regards the information which the entity makes available to economic operators concerning its procurement intentions;
- (b) communicates to the Commission, under the conditions defined in Commission Decision 93/327/EEC <sup>(1)</sup>, information relating to the award of contracts.

### Article 29

#### General mechanism for the exclusion of activities directly exposed to competition

1. Where they are awarded by contracting entities other than public authorities within the meaning of point (a) of Article 2(1) contracts intended to permit the performance of a service mentioned in Articles 3 to 6 shall not be subject to this Directive if, in the Member State in which the activity is to be performed, it is directly exposed to competition on markets to which access is not restricted.

2. For the purposes of paragraph 1, the question of whether an activity is directly exposed to competition shall be decided on the basis of criteria such as the characteristics of the goods or services concerned, the existence of alternative goods or services, prices and the actual or potential presence of more than one supplier of the goods or services in question.

3. For the purposes of paragraph 1, access to a market shall be deemed not to be restricted if the Member State has implemented and applied the provisions of Community legislation mentioned in Annex X.

4. In order to benefit from an exemption under paragraph 1, a Member State shall ask the Commission to grant an exemption.

That Member State shall, taking account of paragraphs 2 and 3, inform the Commission of all relevant facts, and in particular of any law, regulation, administrative provision or agreement concerning compliance with the conditions set out in paragraph 1.

If an independent authority that is competent in the activity concerned has adopted a position regarding questions relevant to paragraphs 1 and 2, its opinion shall be sent to the Commission.

Where the Commission intends to grant an exemption, it shall adopt its decision in accordance with the procedure under Article 65(2). It shall publish its decision in the *Official Journal of the European Communities*.

5. For the adoption of a decision under paragraph 4, the Commission shall be allowed a period of six months commencing from a date determined in accordance with the provisions set out in paragraphs 6, 7 and 8. If free access to a given market cannot be presumed on the basis of paragraph 3, a Member State seeking exemption must demonstrate that access to the market in question is free *de facto* and *de jure*. If, at the end of this period, the Commission has not adopted a decision as to exemption, paragraph 1 shall be deemed to be applicable.

6. Without prejudice to paragraphs 7 or 8, the period laid down in paragraph 5 shall commence on the first working day following the date on which the request in accordance with paragraph 4 is received by the Commission.

7. If, during the procedure, the Commission finds that the information contained in the request or in the documents annexed thereto is incomplete or inexact, it shall inform the Member State concerned in writing without delay and fix an appropriate time-limit by which the information is to be completed. In that event, the six-month period shall run from the date on which the Commission receives the complete information.

8. If the facts as reported in the request undergo any substantive changes those changes shall be communicated to the Commission without delay. In that event, if the substantive changes are liable to influence significantly its assessment under paragraph 1, the Commission may deem notification to have taken effect on the date on which the changes in question were received. It shall inform the Member State concerned of this without delay in writing.

9. The Commission may also begin the procedure for adoption of an exempting decision at its own initiative.

## CHAPTER III

### ARRANGEMENTS APPLICABLE TO SERVICE CONTRACTS

#### Article 30

##### Service contracts listed in Annex XVI A

Contracts which have as their subject-matter services listed in Annex XVI A shall be awarded in accordance with the provisions of Chapters IV to VII.

#### Article 31

##### Service contracts listed in Annex XVI B

Contracts which have as their subject-matter services listed in Annex XVI B shall be governed only by Articles 34 and 42.

<sup>(1)</sup> OJ L 129, 27.5.1993, p. 25.

*Article 32***Mixed service contracts listed in Annex XVI A and in Annex XVI B**

Contracts which have as their subject-matter services listed both in Annex XVI A and in Annex XVI B shall be awarded in accordance with the provisions of Chapters IV to VII where the value of the services listed in Annex XVI A is greater than the value of the services listed in Annex XVI B. In other cases, contracts shall be awarded in accordance with Articles 34 and 42.

## CHAPTER IV

**SPECIFIC RULES GOVERNING SPECIFICATIONS AND CONTRACT DOCUMENTS***Article 33***General provisions**

For each contract, contracting entities shall draw up a set of specifications, clarifying and supplementing the information contained in the notices used as a means of calling for competition in accordance with Article 41. In this context, they shall introduce only technical specifications in accordance with Article 34; if they accept variants, the provisions set out in Article 36 shall be applicable.

Contracting entities may require information on the subject of sub-contracting in accordance with Article 37 or may stipulate conditions concerning obligations relating to employment protection provisions and working conditions in accordance with Article 38.

They may also require particular conditions concerning performance of the contract, provided that the conditions are compatible with applicable Community law.

*Article 34***Technical specifications**

1. The technical specifications as defined in point 1 of Annex XX shall be set out in the contract documents, such as the contract notices, the set of specifications or the supplementary documents.

2. The technical specifications shall afford equal access to tenderers and shall not have the effect of creating unjustified obstacles to the opening of public procurement to competition.

3. Technical specifications shall be formulated by reference to European standards, European technical approvals, common technical specifications, international standards or, when these do not exist, national standards or national technical approvals, as defined in Annex XX, provided that the reference is accompanied by the words 'or equivalent' or to any other technical reference produced by European standardisation bodies.

They may also be formulated in terms of performance or functional requirements. They shall, however, be sufficiently precise to allow tenderers to determine the subject matter of the contract and to allow contracting entities to award the contract.

4. Where, in the case of works contracts, there are no European standards, European technical approvals or common technical specifications, and where it is impossible to formulate the specifications in terms of performance or functional requirements, the technical specifications may be defined by reference to national technical specifications relating to the design, method of calculation and execution of works, and use of products. Such reference shall be accompanied by the words 'or equivalent'.

5. Where a contracting entity makes use of the possibility of referring to the specifications mentioned in the first subparagraph of paragraph 3, it cannot, however, reject a tender on the grounds that the products and services tendered for do not comply with a national standard transposing a European standard, with a European technical approval, a common technical specification, an international standard, or a national standard, a national technical specification or a national technical approval, where the tenderer can show in his offer, by any appropriate means, that the solutions he proposes satisfy in an equivalent manner the requirements defined by the technical specifications.

A technical dossier of the manufacturer or a test report from a third-party body shall constitute an 'appropriate means'.

6. Where a contracting entity uses the possibility laid down in the second subparagraph of paragraph 3 to prescribe in terms of performance, it may not reject a tender for products and services which comply with a national standard transposing a European standard, with a European technical approval, a common technical specification or an international standard, if these standards and approvals address the same functional and performance requirements and are appropriate.

The tenderer must demonstrate in his tender, by any appropriate means, such as a technical dossier or a third party's test report, that the product or service fulfilling the standard meets the functional and performance requirements of the contracting entity.

7. Technical specifications shall not refer to a specific make or source, or to a particular process, or to a trade mark, patent, type or a specific origin or production. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject matter of the contract is not possible in terms of paragraphs 3 and 4; such reference shall be accompanied by the words 'or equivalent'.

*Article 35***Communication of technical specifications**

1. Contracting entities shall make available on request to economic operators interested in obtaining a contract, and who so request, the technical specifications regularly referred to in their supply, works or service contracts, or the technical specifications which they intend to apply to contracts covered by periodic information notices within the meaning of Article 40(1).

2. Where the technical specifications are based on documents available to interested economic operators, the inclusion of a reference to those documents shall be sufficient.

*Article 36***Variants**

1. Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting entities may take account of variants which are submitted by a tenderer and meet the minimum performance levels or requirements specified by the contracting entities.

Contracting entities shall state in the specifications the minimum conditions to be met by the variants and the specific requirements for their presentation. Where variants are not permitted, they shall so indicate in the specifications.

2. Article 34 shall apply to variants.

3. In the procedures for awarding supply contracts, contracting entities which have admitted variants pursuant to paragraph 1 may not reject a variant on the sole ground that it would, if successful, lead to a service contract rather than a supply contract within the meaning of this Directive.

In procurement procedures for service contracts, contracting entities which have admitted variants pursuant to paragraph 1 may not reject a variant on the sole ground that it would, if successful, lead to a supply contract rather than a service contract within the meaning of this Directive.

*Article 37***Subcontracting**

In the specifications, the contracting entity may ask the tenderer to indicate in his tender any share of the contract which he may intend to subcontract to third parties and any designated sub-contractors. This indication shall be without prejudice to the question of the principal economic operator's liability.

*Article 38***Obligations relating to employment protection provisions and working conditions**

1. The contracting entity may state in the specifications, or may be obliged by a Member State so to do, the authority or authorities from which a tenderer may obtain the relevant

information on the obligations relating to the employment protection provisions and working conditions which are in force in the Member State, region or locality in which the works or services are to be executed or provided and which are to be applicable to the works carried out or the services provided on site during performance of the contract.

2. A contracting entity which supplies the information referred to in paragraph 1 shall request the tenderers or those participating in the contract procedure to indicate that they have taken account, when drawing up their tender, of the obligations relating to safety at work and working conditions which are in force in the place where the work or the service is to be carried out or provided.

The first subparagraph shall be without prejudice to the application of Article 55 concerning the examination of abnormally low tenders.

## CHAPTER V

**PROCEDURES***Article 39***Use of open, restricted and negotiated procedures**

1. When awarding supply, works or service contracts, contracting entities shall apply procedures which accord with the provisions of this Directive.

2. Contracting entities may choose any of the procedures described in Article 1(8), provided that, subject to paragraph 3, a call for competition has been made in accordance with Article 41.

3. Contracting entities may use a procedure without prior call for competition in the following cases:

- (a) in the absence of tenders, or of suitable tenders, in response to a procedure with a prior call for competition, provided that the original contract conditions have not been substantially changed;
- (b) where a contract is purely for the purpose of research, experiment, study or development, and not for the purpose of securing a profit or of recovering research and development costs, and in so far as the award of such contract does not prejudice the competitive award of subsequent contracts which do seek, in particular, those ends;
- (c) when, for special technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the performance of the contract can be entrusted only to a particular economic operator;
- (d) when in so far as is strictly necessary, for reasons of extreme urgency brought about by events unforeseeable by the contracting entities, the time-limits laid down for open and restricted procedures cannot be adhered to;

- (e) in the case of supply contracts for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;
- (f) for additional works or services not included in the project initially awarded or in the contract first concluded but which have, through unforeseen circumstances, become necessary to the performance of the contract, on condition that the award is made to the contractor or service provider executing the original contract:
- when such additional works or services cannot be technically or economically separated from the main contract without great inconvenience to the contracting entities; or
  - when such additional works or services, although separable from the performance of the original contract, are strictly necessary to its later stages;
- (g) in the case of works contracts, for new works consisting in the repetition of similar works assigned to the contractor to which the same contracting entities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded after a call for competition: as soon as the first project is put up for tender, notice must be given that this procedure may be adopted and the total estimated cost of subsequent works shall be taken into consideration by the contracting entities when they apply the provisions of Articles 15 and 16 to 19;
- (h) for supplies quoted and purchased on a commodity market;
- (i) for contracts to be awarded on the basis of a framework agreement, provided that the condition referred to in Article 13(2) is fulfilled;
- (j) for bargain purchases, where it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices;
- (k) for purchases of supplies under particularly advantageous conditions from either a supplier definitively winding up his business or the receivers or liquidators of a bankruptcy, an arrangement with creditors or a similar procedure under national laws or regulations;

- (l) when the service contract concerned is part of the follow-up to a design contest organised in accordance with the provisions of this Directive and must, in accordance with the relevant rules, be awarded to the winner or to one of the winners of that contest: in this latter case, all the winners shall be invited to participate in the negotiations.

## CHAPTER VI

## RULES ON PUBLICATION AND TRANSPARENCY

## Section 1

## Publication of notices

## Article 40

**Periodic indicative notices and notices on the existence of a system of qualification**

1. Contracting entities shall make known, at least once a year, by means of a periodic indicative notice:

- (a) in the case of supply contracts, the total of the contracts, for each product area, whose estimated value, taking into account the provisions of Article 18, is equal to or greater than EUR 750 000, and which they intend to award over the following 12 months;
- (b) in the case of works contracts, the essential characteristics of the works contracts which the contracting entities intend to award over the 12 coming months, whose estimated value is equal to or greater than EUR 5 300 000;
- (c) in the case of service contracts, the estimated total value of the service contracts in each of the categories of services listed in Annex XVI A which they intend to award over the following 12 months, where such estimated total value, taking into account the provisions of Article 19, is equal to or greater than EUR 750 000.

2. The notice shall be drawn up in accordance with Annex XIV.

3. Contracting entities may, in particular, publish periodic indicative notices relating to major projects without repeating information previously included in a periodic indicative notice, provided that it is clearly pointed out that these notices are additional ones.

4. Where contracting entities choose to set up a qualification system in accordance with Article 52, the system shall be the subject of a notice drawn up in accordance with the standardised model in Annex XIII, indicating the purpose of the qualification system and how to have access to the rules concerning its operation. Where the system is of a duration greater than three years, the notice shall be published annually. Where the system is of a shorter duration, an initial notice shall suffice.

*Article 41***Notices used as a means of calling for competition**

1. In the case of supply, works or service contracts, the call for competition may be made:
  - (a) by means of a periodic indicative notice drawn up in accordance with Annex XIV; or
  - (b) by means of a notice on the existence of a qualification system drawn up in accordance with Annex XIII; or
  - (c) by means of a notice drawn up in accordance with Annex XII, A, B or C.
2. When a call for competition is made by means of a periodic indicative notice, the notice shall:
  - (a) refer specifically to the supplies, works or services which will be the subject of the contract to be awarded;
  - (b) indicate that the contract will be awarded by restricted or negotiated procedure without further publication of a notice of a call for competition and invite interested economic operators to express their interest in writing; and
  - (c) have been published in accordance with Annex XIX not more than 12 months prior to the date on which the invitation referred to in Article 46(3) is sent.

Moreover, the contracting entity shall meet the deadlines laid down in Article 44.

*Article 42***Contract award notices**

1. Contracting entities which have awarded a contract shall communicate to the Commission, within two months of the award of the contract and under conditions to be laid down by the Commission in accordance with the procedure referred to in Article 65(2), the results of the award procedure by means of a notice drawn up in accordance with Annex XV.
2. The information supplied in accordance with Annex XV and intended for publication shall be published in accordance with Annex XIX. In this connection, the Commission shall respect any sensitive commercial aspects which the contracting entities may point out when forwarding this information, concerning the number of tenders received, the identity of economic operators, or prices.
3. Where contracting entities award a research-and-development ('R & D') service contract by way of a procedure without a call for competition in accordance with point (b) of Article 39(3), they may limit the information to be provided in accordance with Annex XV concerning the

nature and quantity of the services provided, to the reference 'research and development services'.

Where contracting entities award an R & D contract which cannot be awarded by way of a procedure without a call for competition in accordance with point (b) of Article 39(3), they may, on grounds of commercial confidentiality, limit the information to be provided in accordance with Annex XV concerning the nature and quantity of the services supplied.

In such cases, contracting entities shall ensure that any information published under this point is no less detailed than that contained in the notice of the call for competition published in accordance with Article 41(1).

If they use a qualification system, contracting entities shall ensure in such cases that such information is no less detailed than the category referred to in the list of qualified service providers drawn up in accordance with Article 52(4).

4. In the case of contracts awarded for services listed in Annex XVI B, the contracting entities shall indicate in the notice whether they agree to publication.

5. Information provided in accordance with Annex XV and marked as not being intended for publication shall be published only in simplified form and in accordance with Annex XIX for statistical purposes.

*Article 43***Form and manner of publication of notices**

1. The notices referred to in Articles 40, 41 and 42 shall be published in accordance with Annex XIX.

They shall be drawn up in accordance with the standardised model notices adopted by the Commission in accordance with the procedure set out in Article 65(2) and shall contain at least the information specified in Annexes XII, XIII, XIV and XV.

The text in the original language alone shall be authentic.

2. Notices drawn up and transmitted by electronic means in accordance with Annex XIX shall be published not later than five days after they are sent, in accordance with the technical specifications for publication given in Annex XIX.

Notices which are not transmitted by electronic means in accordance with the technical specifications for publication given in Annex XIX shall be published not later than 12 days after they are sent.

In exceptional cases, the notices referred to in Article 41(1)(c) shall be published within five days in response to a request by the contracting entity, provided that the notice has been sent by fax or electronic means.

3. Notices and their contents shall not be made public before the date on which they are sent for publication in accordance with Annex XIX. Such publication shall not contain information other than information contained in the notices sent in accordance with Annex XIX.

4. The costs of publishing notices in accordance with Annex XIX shall be borne by Community.

5. Contracting entities may publish in accordance with Annex XIX contract notices which are not subject to the publication requirement laid down in this Section.

6. Contracting entities shall be able to prove the date of dispatch of notices.

## Section 2

### Time-limits

#### Article 44

#### **Requests to participate and receipt of tenders**

1. All time-limits for the receipt of tenders and requests to participate fixed by the contracting entities shall be sufficiently long to give the candidates reasonable time to draw up and submit their tenders. When fixing these time-limits, entities shall take particular account of the complexity of the contract and the time required for drawing-up tenders.

2. In the case of open procedures, the minimum time-limit for receipt of tenders shall be 52 days from the date on which the contract notice was sent.

3. In restricted procedures and in negotiated procedures with a prior call for competition, the following arrangements shall apply:

(a) the time-limit for the receipt of requests to participate, in response to a notice published under point (c) Article 41(1), or in response to an invitation by the contracting entities under Article 46(3), shall, as a general rule, be fixed at no less than 37 days from the date on which the notice or invitation was sent and may in no case be less than 22 days if the notice is sent for publication by means other than electronic means or fax, and at 15 days if the notice is sent by such means;

(b) the time-limit for receipt of tenders may be set by mutual agreement between the contracting entity and the selected candidates, provided that all candidates have the same time to prepare and submit their tenders;

(c) where it is not possible to reach agreement on the time-limit for receipt of tenders, the contracting entity shall fix a time-limit which shall, as a general rule, be at least 24 days and which shall in no case be less than 10 days from the date of the invitation to tender.

4. If the contracting entities have published a periodic indicative notice as referred to in Article 40(1) in accordance with Annex XIX, the minimum time-limit for receipt of tenders in open procedures shall, as a general rule, not be less than 36 days, but shall in no case be less than 22 days from the date on which the notice was sent.

These shortened time-limits are permitted, provided that the periodic indicative notice has included all the information required by Annex XIV, where the notice was used as a means of calling for competition; and that it has been sent for publication between no less than 52 days and no more than 12 months before the date on which the contract notice referred to in point (c) of Article 41(1) was sent in accordance with Annex XIX.

5. Where notices are drawn up and transmitted by electronic means in accordance with Annex XIX, the time-limits for receipt of requests to participate in restricted and negotiated procedures, and for receipt of tenders in open procedures, may be shortened by seven days.

6. Except in the case of a time-limit set by mutual agreement in accordance with point (b) of paragraph 3, time-limits for receipt of tenders in open, restricted and negotiated procedures may be further reduced by five days where the contracting entity offers free direct access to the entire contract documents and any supporting documents by electronic means as from the date on which the notice used as a means of calling for competition is sent, in accordance with Annex XIX.

7. In open procedures, the cumulative effect of the reductions provided for in paragraphs 4, 5 and 6 may in no case result in a time-limit for receipt of tenders of less than 15 days from the date on which the contract notice was sent.

However, if the contract notice is not sent by fax or electronic means, the cumulative effect of the reductions provided for in paragraphs 4, 5 and 6 may in no case result in a time-limit for receipt of tenders in an open procedure of less than 22 days from the date on which the contract notice was sent.

8. The cumulative effect of the reductions provided for in paragraphs 4, 5 and 6 may in no case result in a time-limit for receipt of requests to participate, in response to a notice published under point (c) of Article 41(1), or in response to an invitation by the contracting entities under Article 46(3), of less than 15 days from the date on which the contract notice or invitation was sent.

In restricted and negotiated procedures, the cumulative effect of the reductions provided for in paragraphs 4, 5 and 6 may in no case, except that of a time-limit set by mutual agreement in accordance with point (b) of paragraph 3, result in a time-limit for the receipt of tenders of less than 10 days from the date of the invitation to tender.

9. If, for whatever reason, the contract documents and the supporting documents or additional information, although requested in good time, have not been supplied within the time-limits set in Article 45, or where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time-limits for receipt of tenders shall be extended accordingly, except in the case of a time-limit set by mutual agreement in accordance with point (b) of paragraph 3, in such a way that the time-limits shall not apply until all the economic operators concerned have taken note of all the information needed for the preparation of a tender.

10. A summary table of the time-limits laid down in this Article is given in Annex XXI.

#### Article 45

##### Set of specifications and additional information

1. Where contracting entities do not give free and direct access to the specifications, in their entirety, and to any supporting documents, by electronic means in accordance with Annex XIX, and where, in restricted or negotiated procedures involving a call for competition, the invitation to tender is not accompanied by such documents, the specifications and supporting documents shall be sent to economic operators within six days of receipt of the request, provided that the request was made in good time before the deadline for submission of bids.

2. Provided that it has been requested in good time, additional information relating to the specifications shall be supplied by the contracting entities not later than six days before the final date fixed for receipt of tenders.

#### Article 46

##### Mode of transmission of requests to participate and rules governing invitations to tender

1. Requests to participate in procurement procedures may be made by electronic means, by letter or by fax.

If they are made by fax, the contracting entities may require that they be confirmed by letter or by electronic means before the end of the period laid down in Article 44.

2. Contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders. The invitation to these candidates shall indicate how they may access the set of specifications and supporting documents made directly available by electronic means in accordance with Annex XIX. If such access is not provided, the invitation shall be accompanied by one copy of the specifications and supporting documents.

In addition, the invitation shall include at least the following:

(a) where appropriate, the time-limit for requesting additional documents, as well as the amount and terms of payment of any sum to be paid for such documents;

(b) the final date for receipt of tenders, the address to which they shall be sent, and the language or languages in which they shall be drawn up;

(c) a reference to any published contract notice;

(d) an indication of any documents to be attached;

(e) the criteria for the award of the contract, and their relative weighting where this is not indicated in the contract notice;

(f) any other specific condition for taking part in the tendering procedure.

3. When a call for competition is made by means of a periodic indicative notice, contracting entities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

This invitation shall include at least the following information:

(a) nature and quantity, including all options concerning complementary contracts and, if possible, the estimated time available for exercising these options; for renewable contracts, the nature and quantity and, if possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;

(b) type of procedure: restricted or negotiated;

(c) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;

(d) the address and closing date for the submission of requests for tender documents and the language or languages in which they are to be drawn up;

(e) the address of the entity which is to award the contract and supply the information necessary for obtaining the specifications and other documents;

(f) economic and technical conditions, financial guarantees and information required from economic operators;

(g) the amount and payment procedures for any sum payable for obtaining the documentation on the procurement procedure;

(h) form of the contract which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of these; and

(i) the award criteria and their weighting where this is not indicated in the indicative notice.

## Section 3

## Communication and information

## Article 47

**Means of communication**

1. All communication and information exchange mentioned in this Part may be performed by letter, fax or electronic means, at the option of the contracting entity.

European Parliament and Council Directives 99/93/EC and .../.../EC of ... [on certain legal aspects of information society services, and in particular electronic commerce in the internal market] shall apply to the transmission of information by electronic means.

2. Communication and information exchange shall be carried out in such a way as to ensure:

- (a) that the integrity of data and the confidentiality of tenders and of all information supplied by economic operators are preserved;
- (b) that the contracting entities only examine the content of tenders after the time-limit set for submitting these has expired.

3. In the case of tenders transmitted by electronic means, tenderers shall undertake that all documents, certificates and declarations that may be required under Articles 51(2), 52 and 53 will be submitted at the latest on the day before tenders are opened.

4. Whatever means is chosen for the transmission of tenders, it shall not have the effect of hampering the proper functioning of the internal market.

## Article 48

**Information to applicants for qualification, candidates and tenderers**

1. Contracting entities shall, as soon as possible, inform the economic operators involved of decisions reached concerning the award of the contract, and shall do so in writing if requested.

2. Contracting entities shall, as soon as possible after receipt of a written request, inform any unsuccessful candidate or tenderer of the reasons for the rejection of his application or his tender, and shall inform any tenderer who has made an admissible tender, of the characteristics and relative advantages of the tender selected, as well as the name of the successful tenderer.

However, contracting entities may decide that certain information on the contract award, referred to in the first subparagraph, is to be withheld where release of such information would impede the application of the law or would otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of public or private economic operators, including those of the economic operator to whom the contract has been awarded, or might prejudice fair competition between economic operators.

3. Contracting entities who establish and operate a system of qualification shall inform applicants of their decision as to qualification within a reasonable period. If the decision will take longer than six months from the presentation of an application, the contracting entity shall inform the applicant, within two months of the application, of the reasons justifying the longer period and of the date by which his application will be accepted or refused.

4. Applicants whose qualification is refused shall be informed of this decision and the reasons for refusal. The reasons must be based on the criteria for qualification referred to in Article 52(2).

5. Contracting entities who establish and operate a system of qualification may bring the qualification of an economic operator to an end only for reasons based on the criteria referred to in Article 52(2). The intention to bring qualification to an end must be notified in writing to the economic operator beforehand, together with the reason or reasons justifying the proposed action.

## Article 49

**Information to be stored concerning awards**

1. Contracting entities shall keep appropriate information on each contract which shall be sufficient to permit them at a later date to justify decisions taken in connection with:

- (a) the qualification and selection of economic operators and award of contracts;
- (b) the use of procedures without a prior call for competition by virtue of Article 39(3);
- (c) the non-application of Chapters III to VI of this Title by virtue of the derogations provided for in Chapter II of Title I and in Chapter II of this Title.

2. The information shall be kept for at least four years from the date of award of the contract so that the contracting entity will be able, during that period, to provide the necessary information to the Commission if the latter so requests.

## CHAPTER VII

**CONDUCT OF THE PROCEDURE**

## Article 50

**General**

1. Contracts shall be awarded on the basis of the award criteria laid down in Section 2, taking into account Article 36 concerning variants, after the suitability of the economic operators has been verified on the basis of the rules and criteria established in accordance with Article 53, taking into account Article 51 concerning mutual recognition.

2. When a call for competition is made by means of a notice on the existence of a qualification system provided for in Section 1, the specific contracts which are the subject of the call for competition shall be awarded on the basis of the award criteria laid down in Section 2, taking into account Article 36 concerning variants, after verification, on the basis of the rules and criteria established in accordance with Article 53, of the suitability of qualified economic operators in accordance with the provisions set out in Article 52 on qualification systems, taking into account Article 51 concerning mutual recognition.

## Section 1

### Qualification and qualitative selection

#### Article 51

#### **Mutual recognition concerning administrative, technical or financial conditions, and certificates, tests and evidence**

1. When choosing participants for a restricted or negotiated procedure, contracting entities shall not, when taking their decision on qualification or when updating the criteria and rules for qualification:

- (a) impose administrative, technical or financial conditions on certain economic operators which would not have been imposed on others;
- (b) require tests or evidence, which would duplicate objective evidence already available.

2. Where contacting entities request production of certificates produced by independent bodies, certifying that the economic operator satisfies certain quality guarantee standards they shall refer to quality assurance systems based on the series of European standards on the subject and certified by bodies meeting European standards of certification.

Contracting entities shall recognise certificates of bodies established in other Member States. They shall also accept other evidence of equivalent quality guarantees produced by economic operators, where the latter do not have access to these certificates or have no opportunity of producing them within the prescribed period.

#### Article 52

#### **Qualification systems**

1. Contracting entities which so wish may establish and operate a system of qualification of economic operators.

Entities which establish or operate a system of qualification shall ensure that economic operators are at all times able to request qualification.

2. The system under paragraph 1 may involve different qualification stages.

It shall be operated on the basis of objective criteria and rules to be established by the contracting entity.

Where those criteria and rules include technical specifications, the provisions of Article 34 shall apply. The criteria and rules may be updated as required.

3. The criteria and rules for qualification referred to in paragraph 2 shall be made available to economic operators on request. The updating of these criteria and rules shall be communicated to the interested economic operators. Where a contracting entity considers that the qualification system of certain other entities or bodies meets its requirements, it shall communicate to interested economic operators the names of such other entities or bodies.

4. A written record of qualified economic operators shall be kept; it may be divided into categories according to the type of contract for which the qualification is valid.

5. When a call for competition is made by means of a notice on the existence of a qualification system, tenderers in a restricted procedure or participants in a negotiated procedure shall be selected from the qualified candidates in accordance with such a system.

#### Article 53

#### **Criteria for qualitative selection**

1. Contracting entities which establish selection criteria in an open procedure shall do so in accordance with objective rules and criteria which are available to economic operators.

2. Contracting entities which select candidates for restricted or negotiated procedures shall do so according to objective criteria and rules which they have laid down and which are available to interested economic operators.

3. In restricted or negotiated procedures, the criteria may be based on the objective need of the contracting entity to reduce the number of candidates to a level which is justified by the need to balance the particular characteristics of the procurement procedure with the resources required to conduct it. The number of candidates selected shall, however, take account of the need to ensure adequate competition.

4. The criteria set out in paragraphs 1 and 2 may include the exclusion criteria listed in Article 46 of Directive . . ./EC [on the coordination of procedures for the award of public supply contracts, public service contracts and public works contracts].

## Section 2

## Awards

## Article 54

**Contract award criteria**

1. Without prejudice to national laws, regulations or administrative provisions on the remuneration of certain services, the criteria on which the contracting entities shall base the award of contracts shall be:

(a) where the contract is awarded on the basis of the most economically advantageous tender for the contracting entities, involving various criteria directly linked to the subject-matter of the contract in question, such as delivery or completion date, running costs, cost-effectiveness, quality, aesthetic and functional characteristics, environmental characteristics, technical merit, after-sales service and technical assistance, commitments with regard to spare parts, security of supply, and price; or

(b) the lowest price only.

2. In the case referred to in point (a) of paragraph 1, the contracting entity shall specify the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender.

This weighting may be expressed as a range within which the value of each criterion is stated.

3. Where the means of calling for competition is a notice as referred to in point (a) of Article 41(1), the relative weighting shall be specified as follows:

(a) in the contract notice or in the contract documents in the case of open procedures;

(b) in the notice in the case of restricted and negotiated procedures.

In the case of point (b), the weighting may, exceptionally and in duly justified cases, be stated in the contract documents or in the invitation to tender.

4. Where, in restricted or negotiated procedures, the means of calling for competition is a notice on the existence of a system of qualification, the relative weighting shall be specified as follows:

(a) in the notice used as a means of calling for competition, if the weighting is known at the time of sending the notice for publication;

(b) otherwise, in the contract documents or the invitation to tender.

5. Where, in restricted or negotiated procedures, the means of calling for competition is a periodic indicative notice, the relative weighting shall be specified as follows:

(a) in the notice used as a means of calling for competition, if the weighting is known at the time of sending the notice for publication;

(b) otherwise, in the invitation to confirm the interest referred to in Article 46(3) or, at the latest, in the contract documents or in the invitation to tender.

## Article 55

**Abnormally low tenders**

If, for a given contract, tenders appear abnormally low in relation to the service to be provided, the contracting entity shall, before it may reject those tenders, request in writing an explanation of the constituent elements of the tender which it considers relevant and, after hearing the interested party, shall verify those constituent elements, taking account of the explanations received. It may set a reasonable period within which to reply.

The contracting entity shall take into consideration explanations which are justified on objective grounds relating to the economics of the construction or production method, or the technical solutions chosen, or the exceptionally favourable conditions available to the tenderer for the execution of the contract, or the originality of the product or the work proposed by the tenderer.

Contracting entities may reject tenders which are abnormally low owing to the receipt of State aid only if they have consulted the tenderer and if the tenderer has been unable to show, within a reasonable period set by the contracting entity, that the aid in question has been notified to the Commission pursuant to Article 88(3) of the Treaty and has received the Commission's approval. Contracting entities which reject a tender in those circumstances shall inform the Commission that they have done so.

## Section 3

Tenders comprising products originating in third countries and relations with those countries

## Article 56

**Tenders comprising products originating in third countries**

1. This Article shall apply to tenders covering products originating in third countries with which the Community has not concluded, whether multilaterally or bilaterally, an agreement ensuring comparable and effective access for Community undertakings to the markets of those third countries. It shall be without prejudice to the obligations of the Community or its Member States in respect of third countries.

2. Any tender made for the award of a supply contract may be rejected where the proportion of the products originating in third countries, as determined in accordance with Council Regulation (EEC) No 2913/92<sup>(1)</sup>, exceeds 50 % of the total value of the products constituting the tender. For the purposes of this Article, software used in telecommunications network equipment shall be regarded as products.

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1; Regulation as last amended by European Parliament and Council Regulation (EC) No 955/1999 (OJ L 119, 7.5.1999, p. 1).

3. Subject to the second subparagraph, where two or more tenders are equivalent in the light of the award criteria defined in Article 54, preference shall be given to those tenders which may not be rejected pursuant to paragraph 2. The prices of those tenders shall be considered equivalent for the purposes of this Article, if the price difference does not exceed 3 %.

However, a tender shall not be preferred to another pursuant to the first subparagraph where its acceptance would oblige the contracting entity to acquire equipment having technical characteristics different from those of existing equipment, resulting in incompatibility, technical difficulties in operation and maintenance, or disproportionate costs.

4. For the purposes of this Article, those third countries to which the benefit of the provisions of this Directive has been extended by a Council decision in accordance with paragraph 1 shall not be taken into account for determining the proportion, referred to in paragraph 2, of products originating in third countries.

5. The Commission shall submit an annual report to the Council, commencing in the second half of the first year following the entry into force of this Directive, on progress made in multilateral or bilateral negotiations regarding access for Community undertakings to the markets of third countries in the fields covered by this Directive, on any result which such negotiations may have achieved, and on the implementation in practice of all the agreements which have been concluded.

The Council, acting by a qualified majority on a proposal from the Commission, may amend the provisions of this Article in the light of such developments.

#### Article 57

#### Relations with third countries as regards service contracts

1. Member States shall inform the Commission of any general difficulties encountered, in law or in fact, by their undertakings in securing the award of service contracts in third countries.

2. The Commission shall report to the Council before 31 December 1994, and periodically thereafter, on the opening-up of service contracts in third countries and on progress in negotiations with these countries on this subject, particularly within the framework of the WTO.

3. The Commission shall endeavour, by approaching the third country concerned, to remedy any situation whereby it finds, on the basis either of the reports referred to in paragraph 2 or of other information, that, in the context of the award of service contracts, a third country:

(a) does not grant Community undertakings effective access comparable to that granted by the Community to undertakings from that country; or

(b) does not grant Community undertakings national treatment or the same competitive opportunities as are available to national undertakings; or

(c) grants undertakings from other third countries more favourable treatment than Community undertakings.

4. In the circumstances referred to in paragraph 3, the Commission may at any time propose that the Council decide to suspend or restrict, over a period to be laid down in the decision, the award of service contracts to:

(a) undertakings governed by the law of the third country in question;

(b) undertakings affiliated to the undertakings specified in point (a) and having their registered office in the Community but having no direct and effective link with the economy of a Member State;

(c) undertakings submitting tenders which have as their subject-matter services originating in the third country in question.

The Council shall act, by qualified majority, as soon as possible.

The Commission may propose these measures on its own initiative or at the request of a Member State.

5. This Article shall be without prejudice to the obligations of the Community in relation to third countries.

#### TITLE III

#### SPECIFIC RULES APPLICABLE TO DESIGN CONTESTS

#### Article 58

#### General

1. The rules for the organisation of a design contest shall be in conformity with paragraph 2 of this Article and with Articles 59, 61, 62 and 63 and shall be made available to those interested in participating in the contest.

2. The admission of participants to design contests shall not be limited:

(a) reference to the territory or part of the territory of a Member State;

(b) on the grounds that, under the law of the Member State in which the contest is organised, they would have been required to be either natural or legal persons.

## Article 59

**Thresholds**

1. This Title shall apply to design contests organised as part of a procurement procedure for services whose estimated value, net of VAT, is equal to or greater than EUR 400 000.
2. This Title shall apply to all design contests where the total amount of contest prizes and payments to participants is equal to or greater than EUR 400 000.

## Article 60

**Excluded design contests**

1. This Directive shall not apply to design contests which the contracting entities organise for purposes other than the pursuit of their activities as described in Articles 3 to 6 or for the pursuit of such activities in a third country, in conditions not involving the physical use of a network or geographical area within the Community.
2. Contracting entities shall notify the Commission at its request of any activities which they regard as excluded under paragraph 1. The Commission may, for information purposes, periodically publish lists of the categories of activities which it considers to be covered by this exclusion, in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.
3. This Directive shall not apply to contests governed by different procedural rules and organised:
  - (a) pursuant to an international agreement concluded in accordance with the Treaty between a Member State and one or more third countries and covering supplies, works, services or design contests intended for the joint implementation or exploitation of a project by the signatory States; every agreement shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts;
  - (b) pursuant to an international agreement relating to the stationing of troops and involving undertakings in a Member State or a third country;
  - (c) pursuant to the particular procedure of an international organisation.
4. This Directive shall not apply to design contests organised for the pursuit, in the Member State concerned, of an activity in respect of which a decision establishing the applicability of Article 29(1) has been taken or concerning which that Article is deemed to be applicable in accordance with paragraph 5 thereof.

## Article 61

**Rules on advertising and transparency**

1. The call for competition shall be made by means of a notice drawn up in accordance with the standard form adopted by the Commission in accordance with the procedure in Article 65(2).

This notice shall contain at least the information indicated in Annex XVII and shall be published in accordance with Annex XIX.

Only the text in the original language shall be authentic.

2. Contracting entities which have organised a design contest shall communicate the results to the Commission, within two months of the closure of the design contest and under conditions to be laid down by the Commission in accordance with the procedure referred to in Article 65(2), by means of a notice.

This notice shall be drawn up in accordance with the standard form adopted by the Commission in accordance with the procedure in Article 65(2) and shall contain at least the information indicated in Annex XVIII.

3. The information supplied in accordance with Annex XVIII shall be published in accordance with Annex XIX. Contracting entities shall not, however, be obliged to publish sensitive commercial information.
4. Notices drawn up and transmitted by electronic means in accordance with Annex XIX shall be published not later than five days after they are sent, in accordance with the technical specifications for publication given in Annex XIX.

Notices which are not transmitted by electronic means in accordance with the technical specifications for publication given in Annex XIX shall be published not later than 12 days after they are sent.

5. The notices and their contents shall not be made public before the date on which they are sent for publication in accordance with Annex XIX. Such publication shall not contain information other than that contained in the notices sent in accordance with Annex XIX.
6. The costs of publishing notices in accordance with Annex XIX shall be borne by the Community.

## Article 62

**Means of communication**

1. All communications and exchanges of information mentioned in this Directive may be effected by letter, by fax or by electronic means, at the option of the contracting entity.

Directives 1999/93/EC and . . ./EC [on certain legal aspects of electronic commerce in the information society, etc.] shall apply to the transmission of information by electronic means.

2. This communication and information exchange must be carried out in such a way as to ensure:

- (a) that the integrity and confidentiality of all information supplied by service providers are preserved;
- (b) that the contracting authorities may only examine the content of plans and projects after the time-limit set for submitting these has expired.

3. If plans and projects are submitted by electronic means, participants in design contests shall undertake to submit any documents, certificates, attestations and declarations required by the contracting entities by any appropriate means not later than the day before the plans and projects are examined by the jury.

4. Whichever means is chosen for the submission of plans and projects, it shall not have the effect of giving rise to discrimination against economic operators.

#### Article 63

#### Organisation of design contests, selection of participants and the jury

1. When organising design contests, contracting entities shall apply procedures which are adapted to the provisions of this Directive.

2. Where design contests are restricted to a limited number of participants, contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.

3. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of its members shall have the same qualification or its equivalent. The jury shall be autonomous in its decisions or opinions. These shall be reached on the basis of projects submitted anonymously, and solely on the basis of the criteria set out in the notice provided for in Annex XVII.

#### TITLE IV

#### STATISTICAL OBLIGATIONS, IMPLEMENTING POWERS AND FINAL PROVISIONS

#### Article 64

#### Statistical obligations

1. Member States shall ensure, in accordance with the arrangements to be laid down under the procedure provided for in Article 65(2), that the Commission receives every year a statistical report concerning the total value, broken down by Member State and by category of activity to which Annexes I to IX refer, of the contracts awarded below the thresholds set

out in Article 15 but which would be covered by this Directive were it not for those thresholds.

2. As regards the categories of activity to which Annexes I, II, VII, VIII and IX refer, Member States shall ensure that the Commission receives a statistical report on contracts awarded no later than 31 October [...] for the previous year, and before 31 October of each year, in accordance with arrangements to be laid down under the procedure referred to in Article 65(2). The statistical report shall contain the information required to verify the proper application of the Agreement.

The information required under the first subparagraph shall not include information concerning contracts for the services listed in category 8 of Annex XVI A, for telecommunications services listed in category 5 whose CPV positions are equivalent to the CPC reference numbers of which are 7524, 7525 and 7526, or for the services listed in Annex XVI B.

3. The arrangements under paragraphs 1 and 2 shall be fixed in such a way as to ensure that:

- (a) in the interests of administrative simplification, contracts of lesser value may be excluded, provided that the usefulness of the statistics is not jeopardised;
- (b) the confidential nature of the information provided is respected.

#### Article 65

#### Advisory Committee

1. The Commission shall be assisted by the Advisory Committee for Public Contracts instituted by Article 1 of Council Decision 71/306/EEC <sup>(1)</sup>.

2. Where reference is made to this paragraph, the advisory procedure in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

#### Article 66

#### Revision of thresholds

1. The Commission shall revise, in accordance with the procedure laid down in Article 62(2), the thresholds established in Article 15, every two years from 1 January 2000, where such revision is necessary in order to ensure compliance with the thresholds in force as laid down by the Agreement on Government Procurement concluded within the World Trade Organisation, which are expressed as Special Drawing Rights (SDR).

The calculation of the value of these thresholds shall be based on the average daily value of the euro, expressed in SDR, over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest ten thousand euro.

<sup>(1)</sup> OJ L 185, 16.8.1971, p. 15; Decision as amended by Decision 77/63/EEC (OJ L 13, 15.1.1977, p. 15).

2. At the same time as performing the revision under paragraph 1, the Commission shall, in accordance with the procedure under Article 65(2), align the thresholds laid down in Article 59 (design contests) on the revised threshold applicable to service contracts.

The values of the thresholds laid down in accordance with paragraph 1 in the national currencies of Member States not participating in Monetary Union shall, in principle, be revised every two years from 1 January 2002. The calculation of such values shall be based on the average daily values of those currencies, expressed in euro, over the 24 months terminating on the last day of August preceding the revision with effect from 1 January.

Where appropriate, the Commission shall also revise the calculation methods set out in paragraph 1 and the first subparagraph of paragraph 2.

3. The revised thresholds referred to in paragraph 1, their values in national currencies and the aligned thresholds shall be published by the Commission in the *Official Journal of the European Communities* at the beginning of the month of November following their revision.

#### Article 67

##### Rules on revision and adaptation

1. The Commission may amend, in accordance with the procedure referred to in Article 65(2):

- (a) the list of contracting entities in Annexes I to IX so that they fulfil the criteria set out in Articles 2 to 6;
- (b) the conditions for the presentation, dispatch, receipt, translation, safekeeping and distribution of the notices referred to in Articles 36, 37, 38 and 58;
- (c) the nomenclature set out in Annexes XVI A and XVI B, in so far as this does not change the scope of the Directive, and the reference in the notices to particular headings in the nomenclature;
- (d) the nomenclature set out in Annex XI, in so far as this does not change the scope of the Directive;

(e) Annexes X and XIX.

2. Decisions taken under paragraph 1 shall be published in the *Official Journal of the European Communities*.

#### Article 68

##### Implementation of the Directive

Member States shall bring into force the laws, regulations and administrative provisions to comply with this Directive by 30 June 2002 at the latest. They shall immediately inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

#### Article 69

##### Repeal

Directive 93/38/EEC is hereby repealed, without prejudice to the obligations of the Member States concerning the time-limits for transposition into national law set out in Annex XXII.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XXIII.

#### Article 70

##### Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

#### Article 71

##### Addressees

This Directive is addressed to the Member States.

## ANNEX I

**CONTRACTING ENTITIES IN THE SECTORS OF PRODUCTION, TRANSPORT OR DISTRIBUTION OF DRINKING WATER**

## BELGIUM

Entity set up pursuant to the Décret de la région wallonne érigeant en entreprise régionale de production et d'adduction d'eau le service du ministère de la région chargé de la production et du grand transport d'eau of 2 July 1987.

Entity set up pursuant to the Arrêté portant constitution d'une société wallonne de distribution d'eau of 23 April 1986.

Entity set up pursuant to the Arrêté de l'exécutif flamand portant fixation des statuts de la société flamande de distribution d'eau of 17 July 1985.

Entities producing or distributing water and set up pursuant to the Loi relative aux intercommunales of 22 December 1986.

Entities producing or distributing water and set up pursuant to the Code communal, article 147 bis, ter et quater sur les régies communales.

## DENMARK

Entities producing or distributing water referred to in Article 3(3) of the lov bekendtgørelse om vandforsyning m.v. of 4 July 1985.

## GERMANY

Entities producing or distributing water pursuant to the Eigenbetriebsverordnungen or Eigenbetriebsgesetze of the *Länder* (Kommunale Eigenbetriebe).

Entities producing or distributing water pursuant to the Gesetze über die Kommunale Gemeinschaftsarbeit oder Zusammenarbeit of the *Länder*.

Entities producing water pursuant to the Gesetz über Wasser- und Bodenverbände of 10 February 1937 and the erste Verordnung über Wasser- und Bodenverbände of 3 September 1937.

(Regiebetriebe) producing or distributing water pursuant to the Kommunalgesetze, and in particular the Gemeindeordnungen der *Länder*.

Entities set up pursuant to the Aktiengesetz of 6 September 1965, as last amended on 19 December 1985, or the GmbH-Gesetz of 20 May 1898, as last amended on 15 May 1986, or having the legal status of a Kommanditgesellschaft, producing or distributing water on the basis of a special contract with regional or local authorities.

## GREECE

The Water Company of Athens (Etaireia Ydrefseos — Apochetefseos Protenoyisis) set up pursuant to Law 1068/80 of 23 August 1980.

The Water Company of Thessaloniki (Organismos Ydrefseos Thessalonikis) operating pursuant to Presidential Decree 61/1988.

The Water Company of Volos (Etaireia Ydrefseos Voloy) operating pursuant to Law 890/1979.

Municipal companies (Dimotikes Epicheiriseis ydrefsis-apochetefsis) producing or distributing water and set up pursuant to Law 1069/80 of 23 August 1980.

Associations of local authorities (Syndesmoi ydrefsis) operating pursuant to the Code of local authorities (Kodikas Dimon kai Koinotiton) implemented by Presidential Decree 76/1985.

## SPAIN

Entities producing or distributing water pursuant to Ley nº 7/1985 de 2 de abril de 1985. Reguladora de las Bases del Régimen local and to Decreto Real nº 781/1986 Texto Refundido Régimen local

— Canal de Isabel II. Ley de la Comunidad Autónoma de Madrid de 20 de diciembre de 1984.

— Mancomunidad de los Canales de Taibilla, Ley de 27 de abril de 1946.

## FRANCE

Entities producing or distributing water pursuant to the:

dispositions générales sur les régies, code des communes L 323-1 à L 328-8, R 323-1 à R 323-6 (dispositions générales sur les régies), or

code des communes L 323-8, R 323-4 [régies directes (ou de fait)], or

décret-loi du 28 décembre 1926, règlement d'administration publique du 17 février 1930, code des communes L 323-10 à L 323-13, R 323-75 à 323-132 (régies à simple autonomie financière), or

code des communes L 323-9, R 323-7 à R 323-74, décret du 19 octobre 1959 (régies à personnalité morale et à autonomie financière), or

code des communes L 324-1 à L 324-6, R 324-1 à R 324-13 (gestion déléguée, concession et affermage), or

jurisprudence administrative, circulaire intérieure (gérance), or

code des communes R 324-6, circulaire intérieure (régie intéressée), or

circulaire intérieure du 13 décembre 1975 (exploitation aux risques et périls), or

décret du 20 mai 1955, loi du 7 juillet 1983 sur les sociétés d'économie mixte (participation à une société d'économie mixte), or

code des communes L 322-1 à L 322-6, R 322-1 à R 322-4 (dispositions communes aux régies, concessions et affermagés).

## IRELAND

Entities producing or distributing water pursuant to the Local Government (Sanitary Services) Act 1878 to 1964.

## ITALY

Entities producing or distributing water pursuant to the Consolidated Text of the *Leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto n. 2578 of 15 October 1925 and Decreto del P.R. n. 902 of 4 October 1986.*

Ente Autonomo Acquedotto Pugliese, set up pursuant to RDL n. 2060 of 19 October 1919.

Ente Acquedotti Siciliani, set up pursuant to *Leggi regionali n. 2/2 of 4 September 1979 and n. 81 of 9 August 1980.*

Ente Sardo Acquedotti e Fognature, set up pursuant to *Legge n. 9 of 5 June 1963.*

## LUXEMBOURG

Local authorities distributing water.

Associations of local authorities producing or distributing water, set up pursuant to the *loi du 14 février 1900 concernant la création des syndicats de communes telle qu'elle a été modifiée et complétée par la loi du 23 décembre 1958 et par la loi du 29 juillet 1981, and pursuant to the loi du 31 juillet 1962 ayant pour objet le renforcement de l'alimentation en eau potable du Grand-Duché de Luxembourg à partir du réservoir d'Esch-sur-Sûre.*

## NETHERLANDS

Entities producing or distributing water pursuant to the *Waterleidingwet of 6 April 1957, as amended by the Laws of 30 June 1967, 10 September 1975, 23 June 1976, 30 September 1981, 25 January 1984 and 29 January 1986.*

## AUSTRIA

Entities of local authorities (*Gemeinden*) and associations of local authorities (*Gemeindeverbände*) producing, transporting or distributing drinking water pursuant to the *Wasserversorgungsgesetze of the nine Länder.*

## PORTUGAL

*Empresa Pública das Águas Livres* producing or distributing water pursuant to the *Decreto-Lei n.º 190/81 of 4 July 1981.*

Local authorities producing or distributing water.

## FINLAND

Entities producing, transporting or distributing drinking water pursuant to Article 1 of Laki yleisistä vesi- ja viemärlaitoksista (982/77) of 23 December 1977.

## SWEDEN

Local authorities and municipal companies producing, transporting or distributing drinking water pursuant to lagen (1970:244) om allmänna vatten- och avloppsanläggningar.

## UNITED KINGDOM

Water companies producing or distributing water pursuant to the Water Acts 1945 and 1989.

The Central Scotland Water Development Board, producing or distributing water, and the Water Authorities, producing or distributing water pursuant to the Water (Scotland) Act 1980.

The Department of the Environment for Northern Ireland responsible for producing and distributing water pursuant to the 'Water and Sewerage' (Northern Ireland) Order 1973.

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**ANNEX II****CONTRACTING ENTITIES IN THE SECTORS OF PRODUCTION, TRANSPORT OR DISTRIBUTION OF ELECTRICITY**

## BELGIUM

Entities producing, transporting or distributing electricity pursuant to Article 5: Des régies communales et intercommunales of the Loi sur les distributions d'énergie électrique of 10 March 1925.

Entities transporting or distributing electricity pursuant to the loi relative aux intercommunales of 22 December 1986.

EBES, Intercom, Unerg and other entities producing, transporting or distributing electricity and granted a concession for distribution pursuant to Article 8 — les concessions communales et intercommunales of the loi du 10 mars 1952 sur les distributions d'énergie électrique.

The Société publique de production d'électricité (SPÉ).

## DENMARK

Entities producing or transporting electricity on the basis of a licence pursuant to § 3, stk. 1, of lov nr. 54 of 25 February 1976 om elforsyning, jf. bekendtgørelse nr. 607 af 17. december 1976 om elforsyningslovens anvendelsesområde.

Entities distributing electricity as defined in § 3, stk. 2, of lov nr. 54 af 25. februar 1976 om elforsyning, jf. bekendtgørelse nr. 607 af 17. december 1976 om elforsyningslovens anvendelsesområde and on the basis of authorisations for expropriation pursuant to Articles 10 to 15 of the lov om elektriske stærkstrømsanlæg, jf. lovbekendtgørelse nr. 669 af 28. december 1977.

## GERMANY

Entities producing, transporting or distributing electricity as defined in § 2 Absatz 2 of the Gesetz zur Förderung der Energiewirtschaft (Energiewirtschaftsgesetz) vom 13. December 1935, as last amended by the Gesetz vom 19. December 1977, and auto-production of electricity in so far as this is covered by the scope of the Directive pursuant to Article 2(5).

## GREECE

Dimosia Epicheirisi Ilektrismoy (Public Power Corporation) set up pursuant to Law 1468 of 2 August 1950: Peri idryseos Dimosias Epicheiriseos Ilektrismoy, and operating pursuant to Law 57/85: Domi, rolos kai tropos dioikisis kai leitoyrgias tis koinonikopoiimenis Dimosias Epicheirisis Ilektrismoy.

## SPAIN

Entities producing, transporting or distributing electricity pursuant to Article 1 of the Decreto de 12 de marzo de 1954, approving the Reglamento de verificaciones eléctricas y regularidad en el suministro de energía, and pursuant to Decreto 2617/1966, de 20 de octubre, sobre autorización administrativa en materia le instalaciones eléctricas.

Red Eléctrica de España SA, set up pursuant to Real Decreto 91/1985 de 23 de enero de 1985.

## FRANCE

Électricité de France, set up and operating pursuant to Loi 46/6288 sur la nationalisation de l'électricité et du gaz of 8 April 1946.

Entities (sociétés d'économie mixte or régies) distributing electricity and referred to in Article 23 of Loi 48/1260 portant modification des lois 46/6288 du 8 avril 1946 et 46/2298 du 21 octobre 1946 sur la nationalisation de l'électricité et du gaz of 12 August 1948.

Compagnie nationale du Rhône.

## IRELAND

The Electricity Supply Board (ESB), set up and operating pursuant to the Electricity Supply Act 1927.

## ITALY

Ente nazionale per l'energia elettrica, set up pursuant to legge n. 1643, 6 dicembre 1962, approvato con Decreto n. 1720, 21 dicembre 1965.

Entities operating on the basis of a licence pursuant to Article 4, n. 5 or 8 of Legge n. 1643 — Istituzione dell'Ente nazionale per la energia elettrica e trasferimento ad esso delle imprese esercenti le industrie elettriche of 6 December 1962.

Entities operating on the basis of a concession pursuant to Article 20 of Decreto del Presidente della Repubblica n. 342 — Norme integrative della legge 6 dicembre 1962, n. 1643 e norme relative al coordinamento e all'esercizio delle attività elettriche esercitate da enti ed imprese diverse dell'Ente nazionale per l'energia Elettrica of 18 March 1965.

## LUXEMBOURG

Compagnie grand-ducale d'électricité de Luxembourg, producing or distributing electricity pursuant to the Convention of 11 November 1927 concernant l'établissement et l'exploitation des réseaux de distribution d'énergie électrique dans le grand-duché du Luxembourg, approved by the Law of 4 January 1928.

Société électrique de l'Our (SEO).

Syndicat de communes SIDOR.

## NETHERLANDS

Elektriciteitsproductie Oost-Nederland.

Elektriciteitsbedrijf Utrecht-Noord-Holland-Amsterdam (UNA).

Elektriciteitsbedrijf Zuid-Holland (EZH).

Elektriciteitsproduktiemaatschappij Zuid-Nederland (EPZ).

Provinciale Zeeuwse Energie Maatschappij (PZEM).

Samenwerkende Elektriciteitsbedrijven (SEP).

Entities distributing electricity on the basis of a licence (vergunning) granted by the provincial authorities pursuant to the Provinciewet.

## AUSTRIA

Entities producing, transporting or distributing electricity pursuant to the second Verstaatlichungsgesetz (BGBl. Nr. 81/1947) and the Elektrizitätswirtschaftsgesetz (BGBl. Nr. 260/1975), including the Elektrizitätswirtschaftsgesetze of the nine *Länder*.

## PORTUGAL

Electricidade de Portugal (EDP), set up pursuant to Decreto-Lei n.º 502/76 de 30 de Junho de 1976.

Local authorities distributing electricity pursuant to Artigo 1.º Decreto-Lei n.º 344-B/82 de 1 de Setembro de 1982, as amended by Decreto-Lei n.º 297/86 de 19 de Setembro de 1986.

Entities producing electricity pursuant to Decreto Lei n.º 189/88 27 de Maio de 1988.

Independent producers of electricity pursuant to Decreto-Lei n.º 189/88 de 27 de Maio de 1988.

Empresa de Electricidade dos Açores — EDA, EP, set up pursuant to Decreto Regional n.º 16/80 de 21 de Agosto de 1980.

Empresa de Electricidade da Madeira, EP, set up pursuant to Decreto-Lei n.º 12/74 de 17 de Janeiro de 1974, and regionalised pursuant to Decreto-Lei n.º 31/79 de 24 de Fevereiro de 1979 and Decreto-Lei n.º 91/79 de 19 de Abril de 1979.

## FINLAND

Entities producing, transporting or distributing electricity on the basis of a concession pursuant to Article 27 of Sähkölaki (319/79) of 16 March 1979.

## SWEDEN

Entities transporting or distributing electricity on the basis of a concession pursuant to lagen (1902:71 s. 1) innefattande vissa bestämmelser om elektriska anläggningar.

## UNITED KINGDOM

Central Electricity Generating Board (CEGB) and the Area Electricity Boards, producing, transporting or distributing electricity pursuant to the Electricity Act 1947 and the Electricity Act 1957.

The North of Scotland Hydro-Electricity Board (NSHB), producing, transporting and distributing electricity pursuant to the Electricity (Scotland) Act 1979.

The South of Scotland Electricity Board (SSEB), producing, transporting and distributing electricity pursuant to the Electricity (Scotland) Act 1979.

Northern Ireland Electricity Service (NIES), set up pursuant to the Electricity Supply (Northern Ireland) Order 1972.

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## ANNEX III

**CONTRACTING ENTITIES IN THE SECTORS OF TRANSPORT OR DISTRIBUTION OF GAS OR HEAT**

## BELGIUM

Distrigaz SA, operating pursuant to the Law of 29 July 1983.

Entities transporting gas on the basis of an authorisation or concession pursuant to the loi du 12 avril. 1985 as amended by the loi du 28 juillet 1987.

Entities distributing gas and operating pursuant to the loi relative aux Intercommunales du 22 décembre 1986.

Local authorities, or associations of local authorities, distributing heat.

## DENMARK

Dansk Olie og Naturgas, A/S operating on the basis of an exclusive right granted pursuant to bekendtgørelse nr. 869 af 18. juni 1979 om eneretsbevilling til indførsel, forhandling, transport og oplagring af naturgas.

Entities operating pursuant to lov nr. 294 af 7. juni 1972 om naturgasforsyning.

Entities distributing gas or heat on the basis of an authorisation pursuant to Chapter IV of lov om varmforsyning, jf. lovbekendtgørelse nr. 330 af 29. juni 1983.

Entities transporting gas on the basis of an authorisation pursuant to bekendtgørelse nr. 141 af 13. marts 1974 om rørledningsanlæg på dansk kontinentalsokkelområde til transport af kulbrinter (installation of pipelines on the continental shelf for the transport of hydrocarbons).

## GERMANY

Entities transporting or distributing gas as defined in paragraph 2 Abs. 2 of the Gesetz zur Förderung der Energiewirtschaft vom 13. Dezember 1935 (Energiewirtschaftsgesetz), as last amended by the law of 19 December 1977.

Local authorities, or associations of local authorities, distributing heat.

## GREECE

DEP, transporting or distributing gas pursuant to Ministerial Decision 2583/1987 (Anathesi sti Dimosia Epicheirisi Petrelaioy armodiotiton schetikon me to fysiko aerio) Systasi tis DEPA AE (Dimosia Epicheirisi Aerioy, Anonymos Etaireia). Athens Municipal Gasworks S.A., DEFA transporting or distributing gas.

## SPAIN

Entities operating pursuant to Ley nº 10 de 15 de junio de 1987.

## FRANCE

Société nationale des gaz du Sud-Ouest, transporting gas.

Gaz de France, set up and operating pursuant to the Loi 46/6288 du 8 avril 1946 sur la nationalisation de l'électricité et du gaz.

Entities (sociétés d'économie mixte or régies) distributing electricity and referred to in Article 23 of the loi 48/1260 du 12 août 1948 portant modification des lois 46/6288 du 8 avril 1946 et 46/2298 du 21 octobre 1946 sur la nationalisation de l'électricité et du gaz.

Compagnie française du méthane, transporting gas.

Local authorities, or associations of local authorities, distributing heat.

## IRELAND

Irish Gas Board, operating pursuant to the Gas Act 1976 to 1987, and other entities governed by Statute.

Dublin Corporation, distributing heat.

## ITALY

SNAM and SGM e Montedison, transporting gas.

Entities distributing gas pursuant to the Testo unico delle leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto 15 ottobre 1925, n. 2578, and to the Decreto del P.R. n. 902 del 4 ottobre 1986.

Entities distributing heat to the public referred to in Article 10 of the Legge 29 maggio 1982, n. 308 (Norme sul contenimento dei consumi energetici, lo sviluppo delle fonti rinnovabili di energia, l'esercizio di centrali elettriche alimentate con combustibili diversi dagli idrocarburi).

Local authorities, or associations of local authorities, distributing heat.

## LUXEMBOURG

Société de transport de gaz SOTEG SA.

Gaswerk Esch-Uelzecht SA.

Service industriel de la commune de Dudelange.

Service industriel de la commune de Luxembourg.

Local authorities, or associations of local authorities, distributing heat.

## NETHERLANDS

NV Nederlandse Gasunie.

Entities transporting or distributing gas on the basis of a licence (vergunning) granted by the local authorities pursuant to the Gemeentewet.

Local and provincial entities transporting or distributing gas pursuant to Gemeentewet and the Provinciewet.

Local authorities, or associations of local authorities, distributing heat.

## AUSTRIA

Gas: contracting entities transporting or distributing gas pursuant to the Energiewirtschaftsgesetz 1935, dRGL. I S 1451/1935, as amended by dRGL. I S 4671/1941.

Heat: contracting entities transporting or distributing heat licensed pursuant to the Austrian Trade and Industry Regulation Act (Gewerbeordnung BGBl. Nr. 50/974).

## PORTUGAL

Petroquímica e Gás de Portugal (EP). pursuant to Decreto-Lei n.º 346-A/88 de 29 de Setembro de 1988.

## FINLAND

Municipal energy services, or associations thereof, or other entities transporting or distributing gas or heat on the basis of a concession granted by the municipal authorities.

## SWEDEN

Entities transporting or distributing gas or heat on the basis of a concession pursuant to lagen (1978:160) om vissa rörledningar.

## UNITED KINGDOM

British Gas plc and other entities operating pursuant to the Gas Act 1986.

Local authorities, or associations of local authorities, distributing heat pursuant to the Local Government (Miscellaneous Provisions) Act 1976.

Electricity Boards distributing heat pursuant to the Electricity Act 1947.

## ANNEX IV

**CONTRACTING ENTITIES IN THE SECTORS OF EXPLORATION FOR AND EXTRACTION OF OIL OR GAS**

The entities granted an authorisation, permit, licence or concession to explore for or extract oil and gas pursuant to the following legislative provisions:

## BELGIUM

Loi du 1 mai 1939 complétée par l'arrêté royal n° 83 du 28 novembre 1939 sur l'exploration et l'exploitation du pétrole et du gaz.

Arrêté royal du 15 novembre 1919.

Arrêté royal du 7 avril 1953.

Arrêté royal du 15 mars 1960 loi au sujet de la plate-forme continentale du 15 juin 1969.

Arrêté de l'exécutif régional wallon du 29 septembre 1982.

Arrêté de l'exécutif flamand du 30 mai 1984.

## DENMARK

Lov nr. 293 af 10. juni om anvendelse af Danmarks undergrund.

Lov om kontinentalsoklen, jf. lovbekendtgørelse nr. 182 af 1. maj 1979.

## GERMANY

Bundesberggesetz vom 13. August 1980, as last amended on 12 February 1990.

## GREECE

Law 87/1975 setting up DEP EKY (Peri idryseos Dimosias Epicheiriseos Petrelaioy).

## SPAIN

Ley sobre Investigación y Explotación de Hidrocarburos de 27 de Junio de 1974 and its implementing decrees.

## FRANCE

Code minier (décret 56-838 du 16 août 1956), as amended by the loi 56-1186 du 10 décembre 1958, décret 60-800 du 2 août 1960, décret 61-359 du 7 avril 1961, loi 70-1 du 2 janvier 1970, loi 77-620 du 16 juin 1977, décret 80-204 du 11 mars 1980.

## IRELAND

Continental Shelf Act 1960.

Petroleum and Other Minerals Development Act 1960.

Ireland Exclusive Licensing Terms 1975.

Revised Licensing Terms 1987.

Petroleum (Production) Act (NI) 1964.

## ITALY

Legge 10 febbraio 1953, n. 136.

Legge 11 gennaio 1957, n. 6, modificata dalla legge 21 luglio 1967, n. 613.

## LUXEMBOURG

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## NETHERLANDS

Mijnwet nr. 285 van 21 april 1810.

Wet opsporing delfstoffen nr. 258 van 3 mei 1967.

Mijnwet continentaal plat 1965, nr. 428 van 23 september 1965.

## AUSTRIA

Entities created pursuant to the Berggesetz 1975 (BGBl. Nr. 259/1975), as last amended by (BGBl. Nr. 193/1993).

## PORTUGAL

Area above water:

Decreto-Lei n.º 543/74 de 16 de Outubro de 1974, n.º 168/77, de 23 de Abril de 1977, n.º 266/80 de 7 de Agosto de 1980, n.º 174/85 de 21 de Maio de 1985 and Despacho n.º 22 de 15 de Março de 1979.

Area under water:

Decreto-Lei n.º 47973 de 30 de Setembro de 1967, n.º 49369 de 11 de Novembro de 1969, n.º 97/71 de 24 de Março de 1971, n.º 96/74 de 13 de Março de 1974, n.º 266/80 de 7 de Agosto de 1980, n.º 2/81 de 7 de Janeiro de 1981 and n.º 245/82 de 22 de Junho de 1982.

## FINLAND

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## SWEDEN

Entities holding a concession for exploring for or exploiting oil or gas pursuant to minerallagen (1991:45) or which have been granted an authorisation pursuant to lagen (1966:314) om kontinentalsockeln .

## UNITED KINGDOM

Petroleum (Production) Act 1934, as extended by the Continental Shelf Act 1964.

Petroleum (Production) Act (Northern Ireland) 1964.

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**ANNEX V****CONTRACTING ENTITIES IN THE SECTORS OF EXPLORATION FOR AND EXTRACTION OF COAL AND OTHER SOLID FUELS**

## BELGIUM

Entities exploring or extracting coal or other solid fuels pursuant to the and the arrêté du Régent du 22 août 1948 and loi du 22 avril 1980.

## DENMARK

Entities exploring or extracting coal or other solid fuels pursuant to the lov bekendtgørelse nr. 531 af 10. oktober 1984.

## GERMANY

Entities exploring or extracting coal or other solid fuels pursuant to the Bundesberggesetz vom 13. August 1980, as last amended on 12 February 1990.

## GREECE

Public Power Corporation Dimosia Epicheirisi Ilektrismoy, exploring for or extracting coal or other solid fuels pursuant to the Mining Code of 1973, as amended by the law of 27 April 1976.

## SPAIN

Entities exploring for or extracting coal or other solid fuels pursuant to Ley 22/1973, de 21 de julio, de Minas, as amended by Ley 54/1980 de 5 de noviembre and by Real Decreto Legislativo 1303/1986 de 28 de junio.

## FRANCE

Entities exploring for or extracting coal or other solid fuels pursuant to code minier (décret 58-863 du 16 août 1956), as amended by the loi 77-620 du 16 juin 1977, décret 80-204 and arrêté du 11 mars 1980.

## IRELAND

Bord na Mona

Entities exploring for or extracting coal pursuant to the Minerals Development Acts, 1940 to 1970.

## ITALY

Carbo Sulcis SpA

## LUXEMBOURG

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## NETHERLANDS

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## AUSTRIA

Entities exploring for or extracting coal or other solid fuels set up pursuant to the Berggesetz 1975 (BGBl. Nr. 259/1975, as last amended by BGBl. Nr. 193/1993).

## PORTUGAL

Empresa Carbonífera do Douro.

Empresa Nacional de Urânio.

## FINLAND

Entities benefiting from a concession for the exploration for or extraction of coal or other solid fuels and operating on the basis of an exclusive right pursuant to Articles 1 and 2 of Laki oikeudesta luovuttaa valtion maaomaisuutta ja tuloatuottavia oikeuksia (687/78).

## SWEDEN

Entities benefiting from a concession for the exploration for or extraction of coal or other solid fuels on the basis of a concession pursuant to minerallagen (1991:45) or lagen (1985:620) om vissa torvfyndigheter, or which have been granted an authorisation pursuant to lagen (1966:314) om kontinentalsockeln Lagen (1966:314) om kontinentalsockeln.

## UNITED KINGDOM

British Coal Board (BCB) set up pursuant to the Coal Industry Nationalisation Act 1946.

Entities benefiting from a licence granted by the BCB pursuant to the Coal Industry Nationalisation Act 1946.

Entities exploring for or extracting solid fuels pursuant to the Mineral Development Act (Northern Ireland) 1969.

## ANNEX VI

## CONTRACTING ENTITIES IN THE FIELD OF RAIL SERVICES

## BELGIUM

Société nationale des chemins de fer belges/Nationale Maatschappij der Belgische Spoorwegen.

## DENMARK

Danske Statsbaner (DSB).

Entities operating/set up pursuant to lov nr. 295 af 6. juni 1984 om privatbanerne, jf. lov nr. 245 af 6. august 1977.

## GERMANY

Deutsche Bundesbahn.

Other entities providing railway services to the public pursuant to § 2 Abs. 1 of Allgemeines Eisenbahngesetz vom 29. März 1951.

## GREECE

Organismos Sidirodromon Ellados (OSE).

## SPAIN

Red Nacional de Los Ferrocarriles Españoles Ferrocarriles de Vía Estrecha (FEVE).

Ferrocarriles de la Generalitat de Catalunya (FGC).

Eusko Trenbideak (Bilbao).

Ferrocarriles de la Generalitat Valenciana (FGV).

## FRANCE

Société nationale des chemins de fer français and other rail networks open to the public referred to in the loi d'orientation des transports intérieurs du 30 décembre 1982, titre II, chapitre 1<sup>er</sup> du transport ferroviaire.

## IRELAND

Iarnrod Éireann (Irish Rail).

## ITALY

Ferrovie dello Stato.

Entities providing railway services on the basis of a concession pursuant to Article 10 of Regio Decreto n. 1447 of 9 May 1912 che approva il Testo unico delle disposizioni di legge per le ferrovie concesse dall'industria privata, le tramvie a trazione meccanica e gli automobili.

Entities operating on the basis of a concession granted, pursuant to special laws, as referred to in Titolo XI, Capo II, Sezione I del Regio Decreto 9 maggio 1912, n. 1447, che approva il Testo unico delle disposizioni di legge per le ferrovie concesse all'industria privata, le tramvie a trazione meccanica e gli automobili.

Entities providing railway services to the public on the basis of a concession pursuant to Article 4 of Legge n. 410 — Concorso dello Stato per la reattivazione dei pubblici servizi di trasporto in concessione of 14 June 1949.

Entities or local authorities providing railway services on the basis of a concession pursuant to Article 14 Legge n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione of 2 August 1952.

## LUXEMBOURG

Chemins de fer luxembourgeois (CFL).

## NETHERLANDS

Nederlandse Spoorwegen NV.

## AUSTRIA

Entities providing railway services set up pursuant to the Eisenbahngesetz 1957 (BGBl Nr. 60/1957).

## PORTUGAL

Caminhos de Ferro Portugueses.

## FINLAND

Valtionrautatiet/Statsjärnvägarna (national railways).

## SWEDEN

Public entities operating railway services in accordance with förordningen (1988:1379) om statens spåranläggningar and lagen (1990:1157) om järnvägssäkerhet.

Regional and local public entities operating regional or local railway communications pursuant to lagen (1978:438) om huvudmannaskap för viss kollektiv persontrafik.

Private entities operating railway services pursuant to an authorisation granted under förordningen (1988:1379) om statens spåranläggningar, where such permission complies with Article 2(3) of the Directive.

## UNITED KINGDOM

British Railways Board.

Northern Ireland Railways.

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## ANNEX VII

**CONTRACTING ENTITIES IN THE FIELD OF URBAN RAILWAY, TRAMWAY, TROLLEYBUS OR BUS SERVICES**

## BELGIUM

Société nationale des chemins de fer vicinaux (SNCV)/Nationale Maatschappij van Buurtspoorwegen (NMB).

Entities providing transport services to the public on the basis of a contract granted by SNCV pursuant to Articles 16 and 21 of the arrêté du 30 décembre 1946 relatif aux transports rémunérés de voyageurs par route effectués par autobus et par autocars.

Société des transports intercommunaux de Bruxelles (STIB).

Maatschappij van het Intercommunaal Vervoer te Antwerpen (MIVA).

Maatschappij van het Intercommunaal Vervoer te Gent (MIVG).

Société des transports intercommunaux de Charleroi (STIC).

Société des transports intercommunaux de la région liégeoise (STIL).

Société des transports intercommunaux de l'agglomération verviétoise (STIAV) and other entities set up pursuant to the Loi relative à la création de sociétés de transports en commun urbains/Wet betreffende de oprichting van maatschappijen voor stedelijk gemeenschappelijk vervoer of 22 February 1962.

Entities providing transport services to the public on the basis of a contract with STIB pursuant to Article 10 or with other transport entities pursuant to Article 11 of the arrêté royal 140 du 30 décembre 1982 relatif aux mesures d'assainissement applicables à certains organismes d'intérêt public dépendant du ministère des communications.

## DENMARK

Danske Statsbaner (DSB).

Entities providing bus services to the public (almindelig rutekørsel) on the basis of an authorisation pursuant to lov nr. 115 af 29. marts om buskørsel.

## GERMANY

Entities providing, on the basis of an authorisation, short-distance transport services to the public (Öffentlicher Personennahverkehr) pursuant to the Personenbeförderungsgesetz vom 21. März 1961, as last amended on 25 July 1989.

## GREECE

Ilektrokinita Leoforeia Periochis Athinon-Peiraios (Electric buses of the Athens-Piraeus area) operating pursuant to Decree 768/1970 and Law 588/1977.

Ilektrikoi Sidirodromoi Athinon-Peiraios (Athens-Piraeus electric railways) operating pursuant to Laws 352/1976 and 588/1977.

Epicheirisi Astikon Sygkoinonion (urban transport undertaking) operating pursuant to Law 588/1977.

Koino Tameio Eisprazeos Leoforeion (Joint bus receipts fund) operating pursuant to Decree 102/1973.

RODA (Dimotiky Epicheirisi Leoforeion Rodoy) Roda: Municipal bus undertaking in Rhodes.

Organismos Astikon Sygkoinonion Thessalonikis (Urban transport organisation of Thessaloniki) operating pursuant to Decree 3721/1957 and Law 716/1980.

## SPAIN

Entities providing transport services to the public pursuant to Article 71 of the Ley de Régimen local Corporación metropolitana de Madrid).

Corporación metropolitana de Barcelona.

Entities providing bus services to the public, pursuant to Article 71 of the Ley de Ordenación de Transportes Terrestres de 31 de julio de 1987.

Entities providing urban or inter-urban bus services to the public pursuant to Articles 113 to 118 of the Ley de Ordenación de Transportes Terrestres de 31 de julio de 1987.

FEVE, RENFE (or Empresa Nacional de Transportes de Viajeros por Carretera) providing bus services to the public pursuant to the Disposiciones adicionales, Primera, de la Ley de Ordenación de Transportes Terrestres of 31 July 1957.

Entities providing bus services to the public pursuant to Disposiciones Transitorias, Tercera, de la Ley de Ordenación de Transportes Terrestres of 31 July 1957.

#### FRANCE

Entities providing transport services to the public pursuant to Article 7-II of the loi n° 82/1153 du 30 décembre 1982 (transports intérieurs, orientation).

Régie autonome des transports parisiens, Société nationale des chemins de fer français, APTR, and other entities providing transport services to the public on the basis of an authorisation granted by the Syndicat des transports parisiens, pursuant to the Ordonnance de 1959 et ses décrets d'application relatifs à l'organisation des transports de voyageurs dans la région parisienne.

#### IRELAND

Iarnród Éireann (Irish Rail).

Bus Éireann (Irish Bus).

Bus Átha Cliath (Dublin Bus).

Entities providing transport services to the public pursuant to the amended Road Transport Act 1932.

#### ITALY

Entities providing transport services on the basis of a concession pursuant to Article 1 of Legge n. 1822 — Disciplina degli autoservizi di linea (autolinee per viaggiatori, bagagli e pacchi agricoli in regime di concessione all'industria privata) of 28 September 1939, as amended by Article 45 of Decreto del Presidente della Repubblica n. 771 of 28 June 1955.

Entities providing transport services to the public pursuant to Article 1(15) of Regio Decreto n. 2578 — Approvazione del Testo unico della legge sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province of 15 October 1925.

Entities operating on the basis of a concession pursuant to Article 242 or 255 of Regio Decreto 9 maggio 1912, n. 1447, che approva il Testo unico delle disposizioni di legge per le ferrovie concesse all'industria privata, le tramvie a trazione meccanica e gli automobili.

Entities or local authorities operating on the basis of a concession pursuant to Article 4 of Legge 14 giugno 1949, n. 410, concorso dello Stato per la riattivazione dei pubblici servizi di trasporto in concessione.

Entities operating on the basis of a concession pursuant to Article 14 of Legge n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione of 2 August 1952.

#### LUXEMBOURG

Chemins de fer du Luxembourg (CFL).

Service communal des autobus municipaux de la ville de Luxembourg.

Transports intercommunaux du canton d'Esch-sur-Alzette (TICE).

Bus service undertakings operating pursuant to the règlement grand-ducal du 3 février 1978 concernant les conditions d'octroi des autorisations d'établissement et d'exploitation des services de transports routiers réguliers de personnes rémunérées.

#### NETHERLANDS

Entities providing transport services pursuant to the public pursuant to Chapter II (Openbaar vervoer) of the Wet Personenvervoer van 12 maart 1987.

## AUSTRIA

Entities providing transport services pursuant to the Eisenbahngesetz 1957 (BGBl. Nr. 60/1957) and the Kraftfahr-  
liniengesetz 1952 (BGBl. Nr. 84/1952).

## PORTUGAL

Rodoviária Nacional, EP.

Companhia Carris de ferro de Lisboa.

Metropolitano de Lisboa, EP.

Serviços de Transportes Colectivos do Porto.

Serviços Municipalizados de Transporte do Barreiro.

Serviços Municipalizados de Transporte de Aveiro.

Serviços Municipalizados de Transporte de Braga.

Serviços Municipalizados de Transporte de Coimbra.

Serviços Municipalizados de Transporte de Portalegre.

## FINLAND

Public or private entities operating bus services pursuant to Laki (343/91) luvanvaraisesta henkilöliikenteestä tiellä and  
Helsingin kaupungin liikennelaitos/Helsingfors stads trafikverk (Helsinki Transport Board), which provides underground  
railway and tramway services to the public.

## SWEDEN

Entities operating urban railway or tramway services pursuant to lagen (1978:438) om huvudmannaskap för viss  
kollektiv persontrafik und Lagen (1990:1157) om järnvägssäkerhet.

Public or private entities operating a trolley bus or bus service pursuant with lagen (1978:438) om huvudmannaskap för  
viss kollektiv persontrafik and lagen (1983:293) om yrkestrafik.

## UNITED KINGDOM

Entities providing bus services to the public pursuant to the London Regional Transport Act 1984.

Glasgow Underground.

Greater Manchester Rapid Transit Company.

Docklands Light Railway.

London Underground Ltd.

British Railways Board.

Tyne and Wear Metro.

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## ANNEX VIII

## CONTRACTING ENTITIES IN THE FIELD OF AIRPORT INSTALLATIONS

## BELGIUM

Régie des voies aériennes, set up pursuant to the Arrêté-loi du portant création de la régie des voies aériennes of 20 November 1946, as amended by Arrêté royal portant refonte du statut de la régie des voies aériennes of 5 October 1970.

## DENMARK

Airports operating on the basis of an authorisation pursuant to § 55, stk. 1, i lov om luftfart, jf. lovbekendtgørelse nr. 408 af 11. september 1985 .

## GERMANY

Airports as defined in Article 38 Absatz 2 Nr. 1 of the Luftverkehrszulassungsordnung vom 19. März 1979, as last amended by the Verordnung vom 21. Juli 1986.

## GREECE

Airports operating pursuant to Law 517/1931 setting up the civil aviation service (Ypiresia Politikis Aeroporias (YPA)).  
International airports operating pursuant to Presidential Decree 647/981.

## SPAIN

Airports managed by Aeropuertos Nacionales operating pursuant to the Real Decreto 278/1982 de 15 de octubre de 1982.

## FRANCE

Aéroports de Paris operating pursuant to titre V, articles L 251-1 à 252-1 du code de l'aviation civile.

Aéroport de Bâle/Mulhouse, set up pursuant to the convention franco-suisse du 4 juillet 1949.

Airports as defined in Article L 270-1 of the Code de l'aviation civile.

Airports operating pursuant to the cahier de charges type d'une concession d'aéroport, décret du 6 mai 1955.

Airports operating on the basis of a convention d'exploitation pursuant to Article L 221 of the code de l'aviation civile.

## IRELAND

Airports of Dublin, Cork and Shannon managed by Aer Rianta-Irish Airports.

Airports operating on the basis of a public use licence granted pursuant to the Air Navigation and Transport Act No 40/1936, the Transport Fuel and Power (Transfer of Departmental Administration Functions) Order 1959 (SI No 125 of 1959) and the Air Navigation (Aerodromes and Visual Ground Aids) Order 1970 (SI No 291 of 1970).

## ITALY

Civilian national airports (aerodromi civili istituiti dallo Stato) operating pursuant to Article 692 of the Codice della navigazione, Regio Decreto n. 327 of 30 March 1942.

Entities operating airport facilities on the basis of a concession granted pursuant to Article 694 of the Codice della navigazione, Regio Decreto 30 marzo 1942, n. 327.

## LUXEMBOURG

Aéroport de Findel.

## NETHERLANDS

Airports operating pursuant to Articles 18 et seq. of the Luchtvaartwet of 15 January 1958 (stbld. 47), as amended on 7 June 1978.

## AUSTRIA

Austro Control GmbH.

Entities as defined in Articles 60 to 80 of the Luftfahrtgesetz 1957 (BGBl. Nr. 253/1957).

## PORTUGAL

Airports managed by Aeroportos e Navegação Aérea (ANA) EP pursuant to Decreto-Lei n.º 246/79.

Aeroporto do Funchal and Aeroporto de Porto Santo, regionalised pursuant to Decreto-Lei n.º 284/81.

## FINLAND

Airports managed by 'Ilmailulaitos/Luftfartsverket' pursuant to Ilmailulaitos/ (595/64).

## SWEDEN

Publicly-owned and operated airports in accordance with lagen (1957:297) om luftfart.

Privately-owned and operated airports with an operating licence under the act, where this licence corresponds to the criteria of Article 2(3) of the Directive.

## UNITED KINGDOM

Airports managed by British Airports Authority plc.

Airports which are public limited companies and operating pursuant to the Airports Act 1986.

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**ANNEX IX****CONTRACTING ENTITIES IN THE FIELD OF MARITIME OR INLAND PORT OR OTHER TERMINAL FACILITIES**

## BELGIUM

Société anonyme du canal et des installations maritimes de Bruxelles.

Port autonome de Liège.

Port autonome de Namur.

Port autonome de Charleroi.

Port de la ville de Gand.

Compagnie des installations maritimes de Bruges — Maatschappij der Brugse haveninrichtingen.

Société intercommunale de la rive gauche de l'Escaut — Intercommunale maatschappij van de linker Scheldeoever (Port d'Anvers).

Port de Nieuwport.

Port d'Ostende.

## DENMARK

Ports as defined in Article 1, I to III of the bekendtgørelse nr. 604 af 16. december 1985 om hvilke havne der er omfattet af lov om trafikhavne, jf. lov nr. 239 af 12. maj 1976 om trafikhavne.

## GERMANY

Seaports owned totally or partially by territorial authorities (Länder, Kreise, Gemeinden).

Inland ports subject to the Hafenordnung pursuant to the Wassergesetze der Länder.

## GREECE

Piraeus port (Organismos Limenos Peiraios), set up pursuant to Emergency Law 1559/1950 and Law 1630/1951.

Thessaloniki port (Organismos Limenos Thessalonikis), set up pursuant to decree N.A. 2251/1953.

Other ports governed by Presidential Decree 649/1977 — Εποπτεία, οργάνωση λειτουργίας και διοικητικός έλεγχος λιµενων (supervision, organisation of functioning and administrative control of ports).

## SPAIN

Puerto de Huelva, set up pursuant to the Decreto de 2 de octubre de 1969, nº 2380/69. Puertos y Faros. Otorga Régimen de Estatuto de Autonomía al Puerto de Huelva.

Puerto de Barcelona, set up pursuant to the Decreto de 25 de agosto de 1978, nº 2407/78, Puertos y Faros. Otorga al de Barcelona Régimen de Estatuto de Autonomía.

Puerto de Bilbao, set up pursuant to the Decreto 25 de agosto de 1978, nº 2408/78. Puertos y Faros. Otorga al de Bilbao Régimen de Estatuto de Autonomía.

Puerto de Valencia, set up pursuant to the Decreto 25 de agosto de 1978, nº 2409/78. Puertos y Faros. Otorga al de Valencia Régimen de Estatuto de Autonomía.

Juntas de Puertos, operating pursuant to the Ley 27/68 de 20 de junio de 1968. Puertos y Faros. Juntas de Puertos y Estatutes de Autonomía en Decreto de 9 de abril de 1970, nº 1350/70. Juntas de Puertos. Ports managed by the Comisión Administrativa de Grupos de Puertos, operating pursuant to the Ley 27/68 de 20 de junio de 1968, Decreto 1958/78 de 23 de junio de 1978 and Decreto 571/81 de 6 de mayo de 1981.

Ports listed in the Real Decreto 989/82 de 14 de mayo de 1982. Puertos. Clasificación de los de interés general.

## FRANCE

Port autonome de Paris, set up pursuant to Loi 68/917 du 24 octobre 1968 relative au port autonome de Paris.

Port autonome de Strasbourg, set up pursuant to the convention du 20 mai 1923 entre l'État et la ville de Strasbourg relative à la construction du port rhénan de Strasbourg et à l'exécution de travaux d'extension de ce port, approved by the loi du 26 avril 1924.

Other inland waterway ports set up or managed pursuant to Article 6 (navigation intérieure) of Décret 69/140 relatif aux concessions d'outillage public dans les ports maritimes of 6 February 1969.

Ports autonomes operating pursuant to Articles L 111-1 et seq. of the code des ports maritimes.

Ports non autonomes operating pursuant to Articles R 121-1 et seq. of the code des ports maritimes.

Ports managed by regional authorities (départements) or operating pursuant to a concession granted by the regional authorities (départements) pursuant to Article 6 of the loi 86/663 du 22 juillet 1983 complétant la loi 83/8 du 7 janvier 1983 relative à la répartition de compétences entre les communes, départements et l'État.

## IRELAND

Ports operating pursuant to the Harbour Acts 1946 to 1976.

Port of Dun Laoghaire operating pursuant to the State Harbours Act 1924.

Port of Rosslare Harbour operating pursuant to the Finguard and Rosslare Railways and Harbours Act 1899.

## ITALY

National ports and other ports managed by the Capitaneria di Porto pursuant to the Codice della navigazione, Regio Decreto 30 marzo 1942, n. 32.

Autonomous ports (enti portuali) set up by special laws pursuant to Article 19 of the Codice della navigazione, Regio Decreto 30 marzo 1942, n. 327.

## LUXEMBOURG

Port de Mertert, set up and operating pursuant to the loi du 22 juillet 1963 relative à l'aménagement et à l'exploitation d'un port fluvial sur la Moselle.

## NETHERLANDS

Havenbedrijven, set up and operating pursuant to the Gemeentewet van 29 juni 1851.

Havenschap Vlissingen, set up by the wet van 10 september 1970 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Vlissingen.

Havenschap Terneuzen, set up by the wet van 8 april 1970 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Terneuzen.

Havenschap Delfzijl, set up by the wet van 31 juli 1957 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Delfzijl.

Industrie- en havenschap Moerdijk, set up by the gemeenschappelijke regeling tot oprichting van het Industrie- en havenschap Moerdijk van 23 oktober 1970, approved by Koninklijk Besluit nr. 23 van 4 maart 1972.

## AUSTRIA

Inland ports owned totally or partially by the *Länder* and/or *Gemeinden*.

## PORTUGAL

Porto de Lisboa, set up pursuant to the Decreto Real of 18 February 1907 and operating pursuant to Decreto-Lei n.º 36976 de 20 de Julho de 1948.

Porto do Douro e Leixões, set up pursuant to Decreto-Lei n.º 36977 de 20 de Julho de 1948.

Porto de Sines, set up pursuant to Decreto-Lei n.º 508/77 de 14 de Dezembro de 1977.

Portos de Setúbal, Aveiro, Figueira da Foz, Viana do Castelo, Portimao e Faro, operating pursuant to the Decreto-Lei n.º 37754 de 18 de Fevereiro de 1950.

## FINLAND

Ports operating pursuant to the Laki kunnallisista satamajärjestyksistä ja liikennemaksuista (955/76).

Saimaan Canal (Saimaan kanavan hoitokunta).

## SWEDEN

Ports and terminal facilities according to lagen (1983:293) om inrättande, utvidgning och avlysning av allmän farled och allmän hamn and the förordningen (1983:744) om trafiken på Göta kanal.

## UNITED KINGDOM

Harbour Authorities within the meaning of Section 57 of the Harbours Act 1964 providing port facilities to carriers by sea or inland waterway.

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## ANNEX X

**LIST OF LEGISLATION REFERRED TO IN ARTICLE 29(3)**

## A. PRODUCTION, TRANSPORT OR DISTRIBUTION OF DRINKING WATER

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## B. PRODUCTION, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY

Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity <sup>(1)</sup>

## C. TRANSPORT OR DISTRIBUTION OF GAS OR HEAT

Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas <sup>(2)</sup>

## D. EXPLORATION FOR AND EXTRACTION OF OIL OR GAS

Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons <sup>(3)</sup>

## E. EXPLORATION FOR AND EXTRACTION OF COAL OR OTHER SOLID FUELS

—

## F. CONTRACTING ENTITIES IN THE FIELD OF RAIL SERVICES

—

## G. CONTRACTING ENTITIES IN THE FIELD OF URBAN RAILWAY, TRAMWAY, TROLLEYBUS OR MOTOR BUS SERVICES

—

## H. CONTRACTING ENTITIES IN THE FIELD OF AIRPORT INSTALLATIONS

—

## I. CONTRACTING ENTITIES IN THE FIELD OF SEAPORT OR INLAND PORT OR OTHER TERMINAL EQUIPMENT

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<sup>(1)</sup> OJ L 27, 30.1.1997, p. 20.

<sup>(2)</sup> OJ L 204, 21.7.1998, p. 1.

<sup>(3)</sup> OJ L 164, 30.6.1994, p. 3.

## ANNEX XI

## LIST OF PROFESSIONAL ACTIVITIES AS SET OUT IN ARTICLE 1(2), POINT B

NACE <sup>(1)</sup>

## SECTION F — CONSTRUCTION

Division	Group	Class	Description	Notes	CPV Code
45			Construction	This division includes: — new construction, restoration and ordinary repair	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	This class includes: — demolition or wrecking of buildings and other structures — clearing of building sites — earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. — site preparation for mining: overburden removal and other development and preparation of mineral properties and sites  This class also includes: — building site drainage — drainage of agricultural or forestry land	45110000
		45.12	Test drilling and boring	This class includes: — test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes  This class excludes: — drilling of production oil or gas wells, see 11.20 — water well drilling, see 45.25 — shaft sinking, see 45.25 — oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20	45120000
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of buildings and civil engineering works	This class includes: — construction of all types of buildings — construction of civil engineering constructions: bridges, including those for elevated highways, viaducts, tunnels and subways — long-distance pipelines, communication and power lines urban pipelines, urban communication and powerlines; ancillary urban works	45210000

<sup>(1)</sup> Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ L 83, 3.3.1993, p. 1).

Division	Group	Class	Description	Notes	CPV Code
				<ul style="list-style-type: none"> <li>— assembly and erection of prefabricated constructions on the site</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— service activities incidental to oil and gas extraction, see 11.20</li> <li>— erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28</li> <li>— construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23</li> <li>— building installation, see 45.3</li> <li>— building completion, see 45.4</li> <li>— architectural and engineering activities, see 74.20</li> <li>— project management for construction, see 74.20</li> </ul>	
		45.22	Erection of roof covering and frame	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— erection of roofs</li> <li>— roof covering</li> <li>— waterproofing</li> </ul>	45220000
		45.23	Construction of highways, roads, airfields and sports facilities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction of highways, streets, roads, other vehicular and pedestrian ways</li> <li>— construction of railways</li> <li>— construction of airfield runways</li> <li>— construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations</li> <li>— painting of markings on road surfaces and car parks</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— preliminary earth moving, see 45.11</li> </ul>	45230000
		45.24	Construction of water projects	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction of: <ul style="list-style-type: none"> <li>— waterways, harbour and river works, pleasure ports (marinas), locks, etc.</li> <li>— dams and dykes</li> </ul> </li> <li>— dredging</li> <li>— subsurface work</li> </ul>	45240000
		45.25	Other construction work involving special trades	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment: <ul style="list-style-type: none"> <li>— construction of foundations, including pile driving</li> </ul> </li> </ul>	45250000

Division	Group	Class	Description	Notes	CPV Code
				<ul style="list-style-type: none"> <li>— water well drilling and construction, shaft sinking</li> <li>— erection of non-self-manufactured steel elements</li> <li>— steel bending</li> <li>— bricklaying and stone setting</li> <li>— scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms</li> <li>— erection of chimneys and industrial ovens</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— renting of scaffolds without erection and dismantling, see 71.32</li> </ul>	
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of: <ul style="list-style-type: none"> <li>— electrical wiring and fittings</li> <li>— telecommunications systems</li> <li>— electrical heating systems</li> <li>— residential antennas and aerials</li> <li>— fire alarms</li> <li>— burglar alarm systems</li> <li>— lifts and escalators</li> <li>— lightning conductors, etc.</li> </ul> </li> </ul>	45310000
		45.32	Insulation work activities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of thermal, sound or vibration insulation</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— waterproofing, (see 45.22)</li> </ul>	45320000
		45.33	Plumbing	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of: <ul style="list-style-type: none"> <li>— plumbing and sanitary equipment</li> <li>— gas fittings</li> <li>— heating, ventilation, refrigeration or air-conditioning equipment and ducts</li> <li>— sprinkler systems</li> </ul> </li> </ul>	45330000

Division	Group	Class	Description	Notes	CPV Code
				This class excludes: — installation of electrical heating systems, see 45.31	
		45.34	Other building installation	This class includes: — installation of illumination and signalling systems for roads, railways, airports and harbours — installation in buildings or other construction projects of fittings and fixtures n.e.c.	45340000
	45.4		Building completion		45400000
		45.41	Plastering	This class includes: — application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials	45410000
		45.42	Joinery installation	This class includes: — installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials — interior completion such as ceilings, wooden wall coverings, movable partitions, etc.  This class excludes: — laying of parquet and other wood floor coverings, see 45.43	45420000
		45.43	Floor and wall covering	This class includes: — laying, tiling, hanging or fitting in buildings or other construction projects of: — ceramic, concrete or cut stone wall or floor tiles — parquet and other wood floor coverings — carpets and linoleum floor coverings, including of rubber or plastic — terrazzo, marble, granite or slate floor or wall coverings — wallpaper	45430000
		45.44	Painting and glazing	This class includes: — interior and exterior painting of buildings — painting of civil engineering structures — installation of glass, mirrors, etc.  This class excludes: — installation of windows, see 45.42	45440000

Division	Group	Class	Description	Notes	CPV Code
		45.45	Other building completion	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation of private swimming pools</li> <li>— steam cleaning, sand blasting and similar activities for building exteriors</li> <li>— other building completion and finishing work n.e.c.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— interior cleaning of buildings and other structures, see 74.70</li> </ul>	45450000
	45.5		Renting of construction or demolition equipment with operator		45500000
		45.50	Renting of construction or demolition equipment with operator	<p>This class excludes:</p> <ul style="list-style-type: none"> <li>— renting of construction or demolition machinery and equipment without operators, see 71.32</li> </ul>	

## ANNEX XII

## INFORMATION TO BE INCLUDED IN CONTRACT NOTICES

## A. OPEN PROCEDURES

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting entity.
2. Nature of the contract (supply, works or service, where appropriate, state if it is a framework agreement).  

Category of service within the meaning of Annex XVI A or XVI B and description (CPC classification).

Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of these.
3. Place of delivery, site or place of performance of service.
4. For supplies and works:
  - (a) Nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the goods to be procured or the nature and extent of the services to be provided and general nature of the work.
  - (b) Indication of whether the suppliers can tender for some and/or all the goods required.  

If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all the lots.
  - (c) For works contracts: information concerning the purpose of the work or the contract where the latter also involves the drawing-up of projects.
5. For services:
  - (a) The nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured.

- (b) Indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
  - (c) Reference of the law, regulation or administrative provision.
  - (d) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.
  - (e) Indication of whether service providers can tender for a part of the services concerned.
6. Authorisation to submit variants.
  7. Time limits for delivery or completion or duration of service contracts and, as far as possible, the starting date.
  8. (a) Address from which the contract documents and additional documents may be requested.  
(b) Where appropriate, the amount and terms of payment of the sum to be paid to obtain such documents.
  9. (a) Final date for receipt of tenders.  
(b) Address to which they must be sent.  
(c) Language or languages in which they must be drawn up.
  10. (a) Where applicable, the persons authorised to be present at the opening of tenders.  
(b) Date, time and place of such opening.
  11. Where applicable, any deposits and guarantees required.
  12. Main terms concerning financing and payment and/or references to the provisions in which these are contained.
  13. Where appropriate, the legal form to be taken by the grouping of economic operators to whom the contract is awarded.
  14. Minimum economic and technical conditions required of the economic operator to whom the contract is awarded.
  15. Period during which the tenderer is bound to keep open his tender.
  16. Where appropriate, particular conditions to which performance of the contract is subject.
  17. Criteria for award of the contract. Criteria other than that of the lowest price shall be mentioned, together with their relative weighting, where they do not appear in the contract documents.
  18. Other information.
  19. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
  20. Date of dispatch of the notice by the contracting entity.
  21. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by that Office).

#### B. RESTRICTED PROCEDURES

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting entity.
2. Nature of the contract (supplies, works or services; where appropriate, state if it is a framework agreement).  
Category of service within the meaning of Annex XVI A or XVI B and description (CPC classification).  
Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of these.
3. Place of delivery, site or place of performance of service.

4. For supplies and works:
  - (a) The nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the goods to be procured or the nature and extent of the services to be provided and general nature of the work.
  - (b) Indication of whether the suppliers can tender for some and/or all the goods required.

If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all the lots.
  - (c) Information concerning the purpose of the work or the contract where the latter also involves the drawing-up of projects.
5. For services:
  - (a) The nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured.
  - (b) Indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
  - (c) Reference of the law, regulation or administrative provision.
  - (d) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.
  - (e) Indication of whether service providers can tender for a part of the services concerned.
6. Authorisation to submit variants.
7. Time limits for delivery or completion or duration of service contract and, as far as possible, for starting.
8. Where appropriate, the legal form to be taken by the grouping of economic operators to whom the contract is awarded.
9.
  - (a) Final date for receipt of requests to participate.
  - (b) Address to which they must be sent.
  - (c) Language or languages in which they must be drawn up.
10. Final date for dispatch of invitations to tender.
11. Where applicable, any deposits and guarantees required.
12. Main terms concerning financing and payment and/or references to the provisions in which these are contained.
13. Information concerning the economic operator's position and the minimum economic and technical conditions required of him.
14. Criteria for the award of the contract. Subject to Article 54(3), second indent, criteria other than the lowest price shall be mentioned as well as their relative weighting.
15. Other information.
16. Where appropriate, particular conditions to which performance of the contract is subject.

17. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
18. Date of dispatch of the notice by the contracting entities.
19. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by that Office).

### C. NEGOTIATED PROCEDURES

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting entity.
2. Nature of the contract (supplies, works or services; where appropriate, state if it is a framework agreement).  
Category of service within the meaning of Annex XVI A or XVI B and description (CPV classification).  
Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of these.
3. Place of delivery, site or place of performance of service.
4. For supplies and works:
  - (a) The nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the goods to be procured or the nature and extent of the services to be provided and general nature of the work.
  - (b) Indication of whether the suppliers can tender for some and/or all the goods required.  
If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all the lots.
  - (c) For works contracts: information concerning the purpose of the work or the contract where the latter also involves the drawing-up of projects.
5. For services:
  - (a) The nature and quantity of the goods to be supplied, including any options for further procurement and, if possible, an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured.
  - (b) Indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
  - (c) Reference of the law, regulation or administrative provision.
  - (d) Indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.
  - (e) Indication of whether service providers can tender for a part of the services concerned.
6. Authorisation to submit variants.
7. Time limits for delivery or completion or duration of service contract and, as far as possible, for starting.
8. Where appropriate, the legal form to be taken by the grouping of economic operators to whom the contract is awarded.
9. (a) Final date for receipt of requests to participate.
  - (b) Address to which they must be sent.
  - (c) Language or languages in which they must be drawn up.
10. Where appropriate, any deposits and guarantees required.

11. Main terms concerning financing and payment and/or references to the provisions in which these are contained.
12. Information concerning the economic operator's position and the minimum economic and technical conditions required of him.
13. Criteria for the award of the contract. Subject to Article 54(3), second indent, criteria other than the lowest price shall be mentioned as well as their relative weighting.
14. Where appropriate, the names and addresses of the economic operators already selected by the contracting entity.
15. Where applicable, date(s) of previous publications in the *Official Journal of the European Communities*.
16. Where appropriate, particular conditions to which performance of the contract is subject.
17. Other information.
18. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
19. Date of dispatch of the notice by the contracting entity.
20. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by that Office).

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ANNEX XIII

**INFORMATION TO BE INCLUDED IN THE NOTICE ON THE EXISTENCE OF A SYSTEM OF QUALIFICATION**

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting entity.
  2. Purpose of the qualification system (description of the goods, services or works or categories thereof to be procured through the system).
  3. Conditions to be fulfilled by the economic operators in view of their qualification pursuant to the system and the methods according to which each of those conditions will be verified. Where the description of such conditions and verification methods is voluminous and based on documents available to interested economic operators, a summary of the main conditions and methods and a reference to those documents shall be sufficient.
  4. Period of validity of the qualification system and the formalities for its renewal.
  5. Reference to the fact that the notice acts as the call for competition.
  6. Address where further information and documentation concerning the qualification system can be obtained (if different from the address mentioned under 1).
  7. Any other relevant information.
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## ANNEX XIV

**INFORMATION TO BE INCLUDED IN THE PERIODIC NOTICE****I. Headings to be completed in any case**

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting entity or the service from which additional information may be obtained.
2. (a) For supply contracts: nature and quantity or value of the services or products to be supplied.  
(b) For works contracts: nature and extent of the services to be provided, the general characteristics of the work or of the lots by reference to the work.  
(c) For service contracts: intended total procurement in each of the service categories listed in Annex XVI A.
3. Date of dispatch of the notice by the contracting entity.
4. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by that Office).
5. Any other relevant information.

**II. Information which must be supplied where the Notice is used as a means of calling for competition or permits shortening of the deadlines for the receipt of candidatures or tenders**

6. A reference to the fact that interested suppliers must advise the entity of their interest in the contract or contracts.
  7. Deadline for the receipt of applications for an invitation to tender.
  8. Nature and quantity of the goods to be supplied or general nature of the work or category of service within the meaning of Annex XVI A and description (CPV nomenclature), stating if framework agreement(s) are envisaged, including any options for further procurement and an estimate of the timing when such options may be exercised. In the case of recurring contracts, also, an estimate of the timing of the subsequent calls for competition.
  9. State whether tenders are requested for purchase, lease, rental or hire-purchase or any combination of these.
  10. Time limits for delivery or completion or duration of service contract and, as far as possible, for starting.
  11. Address to which interested undertakings should send their expressions of interest in writing.  
Final date for receipt of expressions of interest.  
Language or languages authorised for the presentation of candidatures or tenders.
  12. Economic and technical conditions, and financial and technical guarantees required of suppliers.
  13. (a) Estimated date for initiating the award procedures in respect of the contract or contracts (if known).  
(b) Type of award procedure (restricted or negotiated).  
(c) The amount of and payment details for any sum to be paid to obtain documents concerning the consultation.
  14. Where appropriate, particular conditions to which performance of the contract is subject.
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## ANNEX XV

**INFORMATION TO BE INCLUDED IN THE CONTRACT AWARD NOTICE****I. Information for publication in the *Official Journal of the European Communities* <sup>(1)</sup>**

1. Name and address of the contracting entity.
2. Nature of the contract (supplies, works or services; where appropriate state if it is a framework agreement).
3. At least a summary indication of the nature and quantity of the products, works or services provided.
4. (a) Form of the call for competition (notice on the existence of a system of qualification; periodic notice; call for tenders).  
(b) Reference of publication of the notice in the *Official Journal of the European Communities*.  
(c) In the case of contracts awarded without a prior call for competition, indication of the relevant provision of Article 39(3) or Article 31.
5. Award procedure (open, restricted or negotiated).
6. Number of tenders received.
7. Date of award of the contract.
8. Price paid for bargain purchases pursuant to Article 39(3)(j).
9. Name and address of the economic operator(s).
10. State, where appropriate, whether the contract has been, or may be, subcontracted.
11. Price paid or the prices of the highest and lowest bids taken into account in the award of the contract.
12. Optional information:
  - value and share of the contract which has been or may be subcontracted to third parties,
  - award criteria.

**II. Information not intended for publication**

13. Number of contracts awarded (where an award has been split between several suppliers).
14. Value of each contract awarded.
15. Country of origin of the product or service (Community origin or non-Community origin; if the latter, broken down by third country).
16. Which award criteria were used (most economically advantageous; lowest price).
17. Was the contract awarded to a bidder who submitted a variant, in accordance with Article 36(1)?
18. Were any tenders excluded on the grounds that they were abnormally low, in accordance with Article 55?
19. Date of transmission of the notice by the contracting entity.
20. In the case of contracts for services listed in Annex XVI B, agreement by the contracting entity to publication of the notice (Article 42(4)).

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<sup>(1)</sup> Information in headings 6, 9 and 11 is deemed information not intended for publication where the awarding entity considers that publication thereof might be detrimental to a sensitive commercial interest.

## ANNEX XVI A

## SERVICES WITHIN THE MEANING OF ARTICLE 30

Category No	Subject	CPC Reference No	CPV reference No
1	Maintenance and repair services	6112, 6122, 633, 886	50000000, 50100000, 50110000, 50111110, 50112000, 50112100, 50112110, 50112111, 50112120, 50112200, 50112300, 50113000, 50113100, 50113200, 50114000, 50114100, 50114200, 50115000, 50115100, 50115200, 50116000, 50116100, 50116200, 50116300, 50116400, 50116500, 50116510, 50116600, 50117000, 50117100, 50117200, 50117300, 50118000, 50118100, 50118110, 50118200, 50118300, 50118400, 50118500, 50200000, 50210000, 50211000, 50211100, 50211200, 50211210, 50211211, 50211212, 50211300, 50211310, 50212000, 50220000, 50221000, 50221100, 50221200, 50221300, 50221400, 50222000, 50222100, 50223000, 50224000, 50224100, 50224200, 50225000, 50230000, 50231000, 50231100, 50232000, 50232100, 50232200, 50240000, 50241000, 50241100, 50241200, 50242000, 50243000, 50244000, 50245000, 50246000, 50246100, 50246200, 50246300, 50246400, 50314000, 50315000, 50330000, 50331000, 50332000, 50333000, 50333100, 50333200, 50334000, 50334100, 50334110, 50334120, 50334130, 50334140, 50334200, 50334300, 50334400, 50340000, 50341000, 50341100, 50341200, 50342000, 50343000, 50344000, 50344100, 50344200, 50400000, 50410000, 50411000, 50411100, 50411200, 50411300, 50411400, 50411500, 50412000, 50413000, 50413100, 50413200, 50420000, 50421000, 50421100, 50421200, 50422000, 50430000, 50431000, 50432000, 50433000, 50510000, 50511000, 50511100, 50511200, 50512000, 50513000, 50514000, 50514100, 50514200, 50530000, 50531000, 50531100, 50531200, 50531300, 50531400, 50531600, 50532000, 50532100, 50532200, 50532300, 50532400, 50800000, 50810000, 50820000, 50821000, 50822000, 50830000, 50840000, 50841000, 50842000, 50850000, 50860000, 50870000, 50880000, 50881000, 50882000, 50883000, 50884000, 50911000, 50911100, 50911110, 50911120, 50911130, 50911200, 50911210, 50911220, 50912100, 50913100, 50913300, 50913310, 50913400, 50913500, 50913510, 50914000, 50914100, 50914200, 50914300, 50914400, 50914500, 50914600, 50920000, 50921000, 50921100, 50922000, 50923000, 50924000, 50930000, 50931000, 50931100, 50931200, 50931300, 50931400, 50932000, 50932100, 50932200, 50933000, 50934000, 50935000, 50940000, 50941000, 50942000, 50951000, 50952000, 50952100, 50952110, 50952200, 50952400, 50952500, 50960000, 50961000, 50961100, 50961110, 50961200, 50962000, 50970000, 50971000, 50971100, 50971200, 50972000, 50973000, 50973100, 50973200, 50973300, 50973400, 50974000, 50974100, 50974200, 50974300, 50975000, 50975100, 50975200, 50975300, 50976000, 50976100, 50976200, 74732000, 74732100, 74741000, 74742000, 74743000

Category No	Subject	CPC Reference No	CPV reference No
2	Land transport services <sup>(1)</sup> , including armoured car services, and courier services, except transport of mail	712 (except 71235), 7512, 87304	55521200, 60110000, 60112000, 60112100, 60112200, 60112300, 60113000, 60113100, 60113310, 60113400, 60114000, 60115000, 60115100, 60115110, 60116000, 60116100, 60116200, 60116300, 60122110, 60122120, 60122130, 60122140, 60122150, 60122160, 60122161, 60122170, 60123100, 60123200, 60123300, 60123400, 60123500, 60123600, 64120000, 64121000, 64122000, 74612000
3	Air transport services of passengers and freight, except transport of mail	73 (except 7321)	62110000, 62122000, 62210000, 62230000, 62300000
4	Transport of mail by land <sup>(1)</sup> and by air	71235, 7321	62121000
5	Telecommunications services	752	64200000, 64210000, 64211000, 64212000, 64213000, 64214000, 64214200, 64216000, 64216100, 64216110, 64216120, 64216130, 64216140, 64216200, 64216210, 64216300, 64221000, 64222000, 64223000, 64224000, 64225000, 64226000, 72315000, 72318000, 72511100
6	Financial services: (a) insurance services (b) banking and investment services <sup>(2)</sup>	ex 81, 812, 814	66000000, 66100000, 66110000, 66120000, 66130000, 66140000, 66200000, 66300000, 66310000, 66311000, 66312000, 66313000, 66314000, 66315000, 66316000, 66317000, 66320000, 66321000, 66330000, 66331000, 66332000, 66333000, 66334000, 66335000, 66340000, 66341000, 66342000, 66343000, 66343100, 66343200, 66350000, 66360000, 66370000, 66371000, 66372000, 66373000, 66374000, 66380000, 66381000, 66382000, 66383000, 66384000, 67200000, 67210000, 67211000, 67212000, 67220000, 67221000, 67230000, 67240000, 67250000, 67251000, 67260000
7	Computer services and related services	84	50310000, 50311000, 50311400, 50312000, 50312100, 50312110, 50312120, 50312200, 50312210, 50312220, 50312300, 50312310, 50312320, 50312400, 50312410, 50312420, 50312500, 50312510, 50312520, 50312600, 50312610, 50312620, 50313000, 50313100, 50313200, 50316000, 50317000, 50320000, 50321000, 50322000, 50323000, 50323100, 50323200, 50324000, 50324100, 50324200, 72000000, 72100000, 72110000, 72120000, 72130000, 72140000, 72150000, 72200000, 72210000, 72211000, 72212000, 72220000, 72221000, 72222000, 72222100, 72222200, 72222300, 72223000, 72224000, 72224100, 72224200, 72225000, 72226000, 72227000, 72228000, 72230000, 72231000, 72232000, 72240000, 72241000, 72243000, 72245000, 72246000, 72250000, 72251000, 72252000, 72253000, 72253100, 72253200, 72254000, 72254100, 72260000, 72261000, 72262000, 72263000, 72264000, 72265000, 72266000, 72267000, 72268000, 72300000, 72310000, 72311000, 72311100, 72311200, 72311300, 72312000, 72312100, 72312200, 72313000, 72314000, 72315100, 72316000, 72317000, 72319000, 72320000, 72321000, 72510000, 72511000, 72511110, 72512000, 72514000, 72514100, 72514200, 72514300, 72520000, 72521000, 72521100, 72540000, 72541000, 72541100, 72550000, 72560000, 72570000, 72580000, 72590000, 72591000

Category No	Subject	CPC Reference No	CPV reference No
8	R & D services <sup>(3)</sup>	85	63368000, 73000000, 73100000, 73110000, 73111000, 73112000
9	Accounting, auditing and bookkeeping services	862	74121000, 74121100, 74121110, 74121112, 74121113, 74121120, 74121200, 74121210, 74121220, 74121230, 74121240, 74121250, 74541000
10	Market research and public opinion polling services	864	74130000, 74131000, 74131100, 74131110, 74131120, 74131121, 74131130, 74131200, 74131300, 74131400, 74131500, 74131600, 74132000, 74133000, 74423100, 74423110
11	Management consulting services <sup>(4)</sup> and related services	865, 866	73200000, 73210000, 73220000, 73300000, 74121111, 74141000, 74141100, 74141110, 74141200, 74141300, 74141400, 74141500, 74141510, 74141600, 74141610, 74141620, 74141700, 74141800, 74141900, 74142200, 74150000, 74871000, 90311000, 93620000
12	Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services	867	72242000, 72244000, 74142300, 74142310, 74220000, 74221000, 74222000, 74223000, 74224000, 74225000, 74225100, 74230000, 74231100, 74231110, 74231120, 74231130, 74231200, 74231300, 74231310, 74231320, 74231400, 74231500, 74231510, 74231520, 74231521, 74231530, 74231540, 74231600, 74231700, 74231710, 74231720, 74231721, 74231800, 74231900, 74232000, 74232100, 74232110, 74232120, 74232200, 74232210, 74232220, 74232230, 74232240, 74232300, 74232310, 74232320, 74232400, 74232500, 74232600, 74233000, 74233100, 74233200, 74233300, 74233400, 74233500, 74233600, 74233700, 74240000, 74250000, 74251000, 74252000, 74252100, 74260000, 74261000, 74262000, 74262100, 74263000, 74270000, 74271000, 74271100, 74271200, 74271210, 74271220, 74271300, 74271400, 74271500, 74271700, 74271710, 74271720, 74271800, 74272000, 74272100, 74272110, 74272111, 74272112, 74272113, 74272300, 74273000, 74273100, 74273200, 74274000, 74274100, 74274200, 74274300, 74274400, 74274500, 74275000, 74275100, 74275200, 74276000, 74276100, 74276200, 74276300, 74276400, 74300000, 74310000, 74311000, 74312000, 74312100, 74313000, 74313100, 74313110, 74313120, 74313130, 74313140, 74313141, 74313142, 74313143, 74313144, 74313145, 74313146, 74313147, 74313200, 74313210, 74313220, 74874000
13	Advertising services	871	74410000, 74411000, 74412000, 78225000
14	Building-cleaning services and property management services	874, 82201 to 82206	70300000, 70310000, 70311000, 70320000, 70321000, 70322000, 70330000, 70331000, 70331100, 70332000, 70332100, 70332200, 70332300, 74710000, 74720000, 74721000, 74721100, 74721210, 74721300, 74722000, 74724000, 74730000, 74731000, 74744000, 74750000, 74760000, 93411200, 93411300, 93411400
15	Publishing and printing services on a fee or contract basis	88442	74831530, 78000000, 78100000, 78110000, 78110000, 78112000, 78113000, 78113100, 78114000, 78114100, 78114200, 78114300, 78114400, 78115000, 78115100, 78116000, 78117000, 78118000, 78119000, 78120000,

Category No	Subject	CPC Reference No	CPV reference No
			78121000, 78122000, 78122100, 78123000, 78124000, 78125000, 78130000, 78131000, 78132000, 78133000, 78134000, 78135000, 78135100, 78136000, 78140000, 78141000, 78142000, 78150000, 78151000, 78152000, 78153000, 78160000, 78170000, 78180000, 78200000, 78210000, 78220000, 78221000, 78222000, 78223000, 78224000, 78230000, 78240000, 78300000, 78310000, 78311000, 78312000
16	Sewage and refuse disposal services; sanitation and similar services	94	71221110, 74734000, 74735000, 85142200, 90000000, 90100000, 90110000, 90111000, 90111100, 90111200, 90111300, 90112000, 90112100, 90112200, 90112210, 90112300, 90113000, 90114000, 90120000, 90121000, 90121100, 90121110, 90121120, 90121130, 90121140, 90121200, 90121300, 90121310, 90121320, 90121330, 90121340, 90121400, 90122000, 90122100, 90122110, 90122111, 90122112, 90122113, 90122120, 90122121, 90122122, 90122123, 90122124, 90122130, 90122131, 90122200, 90122210, 90122220, 90122230, 90122240, 90122300, 90122310, 90122320, 90122330, 90122340, 90200000, 90210000, 90211000, 90212000, 90213000, 90220000, 90221000, 90240000, 90300000, 90310000, 90312000, 90313000, 90313100, 90313110, 90313120, 90314000, 90315000, 90315100, 90315200, 90315300, 90320000

(<sup>1</sup>) Except for rail transport services covered by category 18.

(<sup>2</sup>) Except contracts for the issue, sale, purchase or transfer of securities or other financial instruments.

(<sup>3</sup>) Except research and development service contracts other than those where the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting entity.

(<sup>4</sup>) Except arbitration and conciliation services.

## ANNEX XVI B

## SERVICES WITHIN THE MEANING OF ARTICLE 31

Category No	Subject	CPC Reference No	CPV reference
17	Hotel and restaurant services	64	55000000, 55100000, 55200000, 55210000, 55220000, 55221000, 55240000, 55241000, 55242000, 55243000, 55250000, 55260000, 55270000, 55300000, 55310000, 55311000, 55312000, 55320000, 55321000, 55322000, 55330000, 55400000, 55410000, 55500000, 55510000, 55511000, 55512000, 55520000, 55521000, 55521100, 55522000, 55523000, 55523100, 55524000, 93410000, 93411000
18	Transport services by rail	711	60111000, 60121000, 60121100, 60121200, 60121300, 60121400, 60121500, 60121600
19	Water transport services	72	61000000, 61100000, 61110000, 61200000, 61210000, 61220000, 61230000, 61240000, 61250000, 61400000, 63370000, 63371000, 63372000, 71221120, 71221130
20	Supporting and auxiliary transport services	74	62224000, 62224100, 62226000, 63000000, 63100000, 63110000, 63111000, 63112000, 63112100, 63112110, 63120000, 63121000, 63121100, 63121110, 63122000, 63200000, 63210000, 63220000, 63221000, 63222000, 63222100, 63223000, 63223100, 63223110, 63223200, 63223210, 63224000, 63225000, 63226000, 63300000, 63310000, 63311000, 63313000, 63314000, 63315000, 63320000, 63330000, 63340000, 63341000, 63341100, 63342000, 63343000, 63343100, 63344000, 63350000, 63351000, 63352000, 63353000, 63360000, 63361000, 63362000, 63363000, 63364000, 63365000, 63366000, 63366100, 63369000, 63400000, 63410000, 63420000, 63430000, 63500000, 63510000, 63511000, 63512000, 63514000, 63515000, 63516000, 63520000, 63521000, 63522000, 63523000, 63524000, 63600000, 71221140, 74322000, 93600000
21	Legal services	861	74110000, 74111000, 74111100, 74111200, 74112000, 74112100, 74112110, 74113000, 74113100, 74113200, 74113210, 74114000
22	Personnel placement and supply services	872	74512000, 74522000, 95100000, 95110000, 95120000, 95130000, 95131000, 95132000, 95133000
23	Investigation and security services, except armoured car services	873 (except 87304)	74611000, 74613000, 74614000, 74614100, 74614110, 74615000, 74620000
24	Education and vocational education services	92	80000000, 80100000, 80110000, 80200000, 80210000, 80211000, 80212000, 80220000, 80300000, 80310000, 80320000, 80330000, 80340000, 80400000, 80411000, 80411100, 80411200, 80412000, 80421000, 80422000, 80422100, 80423000, 80423100, 80423110, 80423120, 80423200, 80423300, 80423320, 80424000, 80425000, 80426000, 80426100, 80426200, 80427000, 80428000, 80430000, 92312212, 92312213

Category No	Subject	CPC Reference No	CPV reference
25	Health and social services	93	60113300, 74511000, 85000000, 85100000, 85110000, 85111000, 85111100, 85111200, 85111300, 85111320, 85111400, 85111500, 85111600, 85111700, 85111800, 85112000, 85112100, 85120000, 85121000, 85121100, 85121200, 85121300, 85130000, 85131000, 85131100, 85131110, 85140000, 85141000, 85141100, 85141200, 85141210, 85141211, 85141212, 85141220, 85142000, 85142100, 85142200, 85142300, 85142400, 85143000, 85144000, 85144100, 85145000, 85146000, 85146100, 85146200, 85147000, 85148000, 85149000, 85200000, 85300000, 85310000, 85311000, 85311100, 85311200, 85311300, 85312000, 85312100, 85312200, 85312300, 85312310, 85312320, 85312330, 85312400, 85320000, 85323000
26	Recreational, cultural and sporting services	96	74875000, 74875100, 74875200, 77310000, 77311000, 77313000, 77400000, 80413000, 80414000, 80415000, 92000000, 92100000, 92110000, 92111000, 92111100, 92111200, 92111210, 92111220, 92111230, 92111240, 92111250, 92111260, 92111300, 92111310, 92111320, 92112000, 92120000, 92121000, 92122000, 92130000, 92140000, 92200000, 92210000, 92211000, 92220000, 92221000, 92300000, 92310000, 92311000, 92312000, 92312100, 92312110, 92312120, 92312130, 92312140, 92312200, 92312210, 92312220, 92312230, 92312240, 92312250, 92320000, 92330000, 92331000, 92331100, 92331200, 92332000, 92340000, 92341000, 92342000, 92342100, 92342200, 92350000, 92351000, 92351100, 92351200, 92352000, 92352100, 92352200, 92360000, 92400000, 92500000, 92510000, 92511000, 92512000, 92520000, 92521000, 92521100, 92521200, 92521210, 92521220, 92522000, 92522100, 92522200, 92530000, 92531000, 92532000, 92533000, 92534000, 92600000, 92610000, 92620000, 92621000, 92622000
27	Other services		50111100, 50232110, 50246500, 50520000, 50521000, 50522000, 50523000, 50531500, 50531510, 50700000, 50710000, 50711000, 50712000, 50720000, 50730000, 50731000, 50732000, 50732100, 50740000, 50760000, 50761000, 50762000, 50911230, 50912200, 50913200, 50915000, 50915100, 50915200, 50952300, 50977000, 52000000, 52100000, 52200000, 52300000, 52400000, 52500000, 52600000, 52700000, 52800000, 52900000, 60113200, 60200000, 60210000, 60220000, 61300000, 62221000, 62222000, 62223000, 63367000, 64110000, 64111000, 64112000, 64113000, 64114000, 64115000, 64116000, 64214100, 64214400, 65000000, 65100000, 65110000, 65120000, 65130000, 65200000, 65210000, 65300000, 65310000, 65320000, 65400000, 65410000, 65500000, 67100000, 67110000, 67120000, 67121000, 67122000, 67130000, 67140000, 67300000, 70100000, 70110000, 70111000, 70112000, 70120000, 70121000, 70121100, 70121200, 70122000, 70122100, 70122110, 70122200, 70122210, 70123000, 70123100, 70123200, 70130000, 70311100, 70311200, 70333000, 71000000, 71100000, 71110000, 71120000, 71130000, 71140000, 71150000, 71160000, 71170000, 71180000, 71181000, 71211300, 71211310

Category No	Subject	CPC Reference No	CPV reference
			71211320, 71211400, 71211600, 71211900, 71300000, 71310000, 71311000, 71320000, 71321000, 71321100, 71321200, 71321300, 71321400, 71330000, 71331000, 71332000, 71332100, 71332200, 71333000, 71340000, 71350000, 71360000, 71380000, 74122000, 74122100, 74122200, 74271600, 74271900, 74321000, 74321100, 74420000, 74421000, 74422000, 74423000, 74423200, 74423210, 74542000, 74543000, 74731100, 74810000, 74811000, 74811100, 74811200, 74811300, 74811310, 74811320, 74811330, 74811340, 74812000, 74813000, 74820000, 74821000, 74830000, 74831000, 74831100, 74831110, 74831200, 74831210, 74831300, 74831400, 74831500, 74831510, 74831520, 74831600, 74832000, 74832100, 74841000, 74842000, 74844000, 74850000, 74851000, 74860000, 74861000, 74870000, 74872000, 74873100, 74876000, 74877000, 75000000, 75100000, 75110000, 75111000, 75111100, 75111200, 75112000, 75112100, 75120000, 75121000, 75122000, 75123000, 75124000, 75125000, 75130000, 75131000, 75131100, 75200000, 75210000, 75211000, 75211100, 75211110, 75211200, 75211300, 75220000, 75221000, 75222000, 75230000, 75231000, 75231100, 75231200, 75231210, 75231220, 75231230, 75231240, 75240000, 75241000, 75241100, 75242000, 75242100, 75242110, 75250000, 75251000, 75251100, 75251110, 75251120, 75252000, 75300000, 75310000, 75311000, 75312000, 75313000, 75313100, 75314000, 75320000, 75330000, 75340000, 76000000, 76100000, 76110000, 76111000, 76120000, 76200000, 76210000, 76211000, 76211100, 76211200, 76300000, 76310000, 76320000, 76330000, 76340000, 76400000, 76410000, 76411000, 76420000, 76430000, 76431000, 76440000, 76450000, 76460000, 76470000, 76480000, 76490000, 76491000, 76492000, 76500000, 76510000, 76520000, 76521000, 76522000, 76530000, 76531000, 77000000, 77100000, 77110000, 77120000, 77210000, 77211000, 77211100, 77211300, 77220000, 77230000, 77330000, 77500000, 77510000, 77600000, 77610000, 77700000, 78400000, 85321000, 85322000, 90114100, 90115000, 90122132, 90123000, 90123100, 90123200, 90123300, 90230000, 91000000, 91100000, 91110000, 91120000, 91130000, 91131000, 91200000, 91300000, 91310000, 91320000, 91330000, 91331000, 91331100, 92230000, 92312211, 93100000, 93110000, 93111000, 93112000, 93120000, 93121000, 93130000, 93140000, 93150000, 93160000, 93200000, 93210000, 93211000, 93220000, 93221000, 93221100, 93221200, 93221300, 93300000, 93310000, 93320000, 93330000, 93411100, 93500000, 93510000, 93511000, 93511100, 93621000, 93700000, 93710000, 93711000, 93711100, 93711110, 93711200, 93712000, 93910000, 93930000, 93940000, 93950000, 95000000, 99000000, 99100000

## ANNEX XVII

**INFORMATION TO BE INCLUDED IN THE DESIGN CONTEST NOTICE**

1. Name, address, electronic address, telephone, telex and fax numbers of the contracting authority and of the service from which additional documents may be obtained.
2. Project description.
3. Nature of the contest: open or restricted.
4. In the case of open contests: final date for receipt of projects.
5. In the case of restricted contests:
  - (a) the number of participants envisaged, or range;
  - (b) where applicable, names of participants already selected;
  - (c) criteria for the selection of participants;
  - (d) final date for receipt of requests to participate.
6. Where applicable, indication of whether participation is reserved to a particular profession.
7. Criteria to be applied in the evaluation of projects.
8. Where applicable, names of the selected members of the jury.
9. Indication of whether the decision of the jury is binding on the authority.
10. Where applicable, number and value of prizes.
11. Where applicable, details of payments to all participants.
12. Indication of whether the prize-winners are permitted any follow-up contracts.
13. Other information.
14. Date of dispatch of the notice.
15. Date of receipt of the notice by the Office for Official Publications of the European Communities

## ANNEXE XVIII

**INFORMATION TO BE INCLUDED IN THE RESULTS OF DESIGN CONTEST NOTICES**

1. Name, address, telegraphic address and telephone, telex and fax numbers of the contracting authority.
2. Project description.
3. Total number of participants.
4. Number of foreign participants.
5. Winner(s) of the contest.
6. Where applicable, the prize(s).
7. Other information.
8. Reference of the design contest notice.
9. Date of dispatch of the notice.
10. Date of receipt of the notice by the Office for Official Publications of the European Communities.

## ANNEX XIX

**TECHNICAL SPECIFICATIONS FOR PUBLICATION**

Where this Directive lays down publicity requirements, these must comply with the following provisions:

**1. Publication of notices**

- 1.1. Where this Directive requires contracting authorities to publish certain items of information, they are to send this information in the required format to the Office for Official Publications of the European Communities either in electronic form, in accordance with this Annex, or by other means.
- 1.2. Notices referred to in Articles 40, 41 and 42 and Article 61 are published through the Office for Official Publications of the European Communities. They are published *in extenso* in their original language. A summary of the main points of each notice is published in the other official languages.
- 1.3. The Office for Official Publications of the European Communities will confirm to the contracting authority that the information submitted has been published, indicating the date of publication. This confirmation constitutes proof of actual publication.

**2. Publication of complementary or additional information**

- 2.1. Contracting entities are encouraged in particular to publish the specifications in their entirety on the Internet. In such cases, the authorities must, wherever possible, specify in the text of the notice required by this Directive the Internet address at which this documentation may be accessed.
- 2.2. Contracting entities are encouraged to publish their „buyer profile“ on the Internet. The profile may include information on ongoing invitations to tender, scheduled purchases, contracts concluded, procedures cancelled and any useful general information, such as a contact point, a telephone and a fax number, a postal address and an e-mail address.

**3. Electronic transmission**

The arrangements for electronic transmission must comply with those available at the Internet address: „<http://si-map.eu.int>“.

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## ANNEX XX

**DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS**

For the purposes of this Directive,

1. „Technical specification“ means a specification contained, in particular, in the contract documents setting out the required characteristics of a product or service, such as the level of quality or performance, safety or dimensions, including the requirements applicable to the product or service concerning the trade name, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures.

It includes, where applicable, the rules relating to design and costing, the test, inspection and acceptance conditions for works, and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the constituent materials or parts.

2. „Standard“ means a technical specification approved by a recognised standardisation body for repeated or continuous application, compliance with which is not compulsory and which falls into one of the following categories:
    - international standard: a standard adopted by an international standards organisation and made available to the general public;
    - European standard: a standard adopted by a European standards organisation and made available to the general public;
    - national standard: a standard adopted by a national standards organisation and made available to the general public.
  3. „European technical approval“ means a favourable technical assessment of the fitness for use of a product, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. European approval shall be issued by an approval body designated for this purpose by the Member State.
  4. „Common technical specifications“ means technical specifications drawn up in accordance with a procedure recognised by the Member States and published in the *Official Journal of the European Communities*.
  5. „Technical reference“: means any product produced by European standardisation bodies, other than official standards, according to procedures adopted for market development.
-

## ANNEXE XXI

## SUMMARY TABLE OF THE DEADLINES LAID DOWN IN ARTICLE 44

## Open procedures

*Deadline for receipt of bids — without a periodic indicative notice*

Deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 7	Effect on second subparagraph of paragraph 7
52	45	47	40	none	none

*With publication of a periodic indicative notice*

A. Deadline in general	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 7	Effect on second subparagraph of paragraph 7
36	29	31	24	none	none
B. Minimum deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 7	Effect on second subparagraph of paragraph 7
22	15	17	10	The period of 10 days is extended to 15 days	The period of 17 days is extended to 22 days

## Restricted and negotiated procedures

*Deadline for the receipt of requests to participate*

General deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
37	30	Not applicable (n.a.)	n.a.	none	n.a.
Minimum deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
22	15	n.a.	n.a.	none	n.a.
Minimum deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
15	8	n.a.	n.a.	The period of 8 days is extended to 15 days	n.a.

*Deadline for the receipt of tenders*

A. Deadline in general	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
24	n.a.	19	n.a.	n.a.	none
B. Minimum deadline	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
10	n.a.	5	n.a.	n.a.	The period of 5 days is extended to 10 days
C. Deadline set by agreement	Electronic dispatch of the notice	Contract documents available electronically	Electronic dispatch plus 'electronic' contract documents	Effect on first subparagraph of paragraph 8	Effect on second subparagraph of paragraph 8
	n.a.	n.a.	n.a.	n.a.	n.a.

## ANNEX XXII

**TIME-LIMITS FOR TRANSPOSITION AND IMPLEMENTATION**

Directive	Time-limits for transposition	Time-limits for application
93/38/EEC (OJ L 199, 9.8.1993, p. 84)	1.7.1994	Spain: 1.1.1997; Greece and Portugal: 1.1.1998
98/4/EC (OJ L 101, 1.4.1998, p. 1)	16.2.1999	Greece and Portugal: 16.2.2000

## ANNEX XXIII

CORRELATION TABLE <sup>(1)</sup>

This Directive	Directive 93/38/EEC	
Art. 1(1)	Art. 1(1), 1st sentence	
Art. 1(2), 1st sentence	Art. 1(4), 1st sentence	Adapted
Art. 1(2)(a)	Art. 1(4)(a)	
Art. 1(2)(b)	Art. 1(4)(b)	
Art. 1(2)(c)	Art. 1(4)(c), 1st part	Adapted
Art. 1(3), 1st subparagraph	Art. 1(4), 2nd subparagraph	Adapted
Art. 1(3), 2nd subparagraph		New
Art. 1(4)		New
Art. 1(5)		New
Art. 1(6), 1st subparagraph	Art. 1(6), in fine	Amended
Art. 1(6), 2nd subparagraph		New
Art. 1(6), 3rd subparagraph	Art. 1(6), 1st sentence	Adapted
Art. 1(7)	Art. 1(5)	Adapted
Art. 1(8)	Art. 1(7)	Adapted
Art. 1(9)	Art. 1(16),	
Art. 1(10)		New
Art. 1(11)		New
Art. 1(12)		New
	Art. 1(14) and (15)	Deleted
Art. 2(1)(a)	Art. 1(1)	
Art. 2(1)(b)	Art. 1(2)	
Art. 2(2)	Art. 2(1)	Adapted
Art. 2(3)	Art. 2(3)	Amended
Art. 3(1)	Art. 2(2)(a)(iii)	Adapted
Art. 3(2)	Art. 2(5)(b)	Adapted
Art. 3(3)	Art. 2(2)(a)(ii)	Adapted
Art. 3(4)	Art. 2(5)(a)	Adapted

(1) 'Adapted' indicates that the wording has been reformulated without changing the scope of the text of the repealed Directive. Changes to the scope of the provisions of the repealed Directive are denoted by the word 'Amended'.

This Directive	Directive 93/38/EEC	
Art. 4(1)	Art. 2(2)(a)(i)	Adapted
Art. 4(2)	Art. 6(2)	Adapted
Art. 4(3)	Art. 2(5)(a)	Adapted
Art. 5(1)	Art. 2(2)(c)	Adapted
Art. 5(2)	Art. 2(4)	Amended
Art. 6	Art. 2(2)(b)	
	Art. 2(2)(d)	Deleted
Art. 7	Art. 2(6)	Amended
Art. 8		New
Art. 9	Art. 4(2)	Amended
Art. 10	Art. 33	Adapted
Art. 11	Art. 42a	
Art. 12	Art. 4(3) and (4)	Adapted
Art. 13	Art. 5	
Art. 14		New
Art. 15	Art. 14 par. 1	Amended
Art. 16 par. 1	Art. 14 par. 13	Adapted
Art. 16 par. 2	Art. 14 par. 9	
Art. 17(1)	Art. 14 par. 11	
Art. 17(2)	Art. 14 par. 12	
Art. 17(3)	Art. 14 par. 10	
Art. 17(4)	Art. 14 par. 10, 2nd subparagraph	Adapted
Art. 18(1)	Art. 14 par. 10, 2nd subparagraph, 1st and 2nd sentences	Adapted
Art. 18(2)	Art. 14 par. 6	Adapted
Art. 18(3)	Art. 14 par. 7	Adapted
Art. 18(4)	Art. 14 par. 4	Adapted
Art. 18(5)	Art. 14 par. 8	
Art. 19(1)	Art. 14 par. 2	Adapted
Art. 19(2)	Art. 14 par. 10, 2nd subparagraph, 1st and 2nd sentences	Adapted

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Art. 19(3)	Art. 14 par. 6	Adapted
Art. 19(4)	Art. 14 par. 7	Adapted
Art. 19(5)	Art. 14 par. 8	
Art. 19(6)	Art. 14 par. 3	
Art. 19(7)	Art. 14(5)	
Art. 20	Art. 7	
Art. 21	Art. 6(1) and (3)	Adapted
Art. 22	Art. 10	
Art. 23(a)	Art. 12, 1	Amended
Art. 23(b)	Art. 12, 2	
Art. 23(c)	Art. 12(3)	
Art. 24(a)	Art. 1 par. 4(c)(i)	
Art. 24(b)	Art. 1 par. 4(c)(iii)	
Art. 24(c)	Art. 1 par. 4(c)(iv)	
Art. 24(d)	Art. 1 par. 4(c)(v)	
Art. 24(e)	Art. 1 par. 4(c)(vi)	
	Art. 1 par. 4(c)(ii) and Annex XVI A, footnote 2	Deleted
Art. 25	Art. 11	Adapted
Art. 26 par. 1	Art. 13 par. 1	Adapted
Art. 26 par. 2	Art. 1 par. 3	
Art. 26 par. 3	Art. 13 par. 2	
Art. 27 par. 1	Art. 9 par. 1(a)	Adapted
	Art. 9 par. 1(b)	Deleted
Art. 27 par. 2	Art. 9 par. 2	
	Art. 3 par. 1	Deleted
Art. 28	Art. 3 par. 2	Amended
	Art. 3 par. 3 to 5	Deleted
Art. 29		New
	Art. 8	Deleted
Art. 30	Art. 15	Adapted

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Art. 31	Art. 16	
Art. 32	Art. 17	
Art. 33		New
Art. 34	Art. 18	Amended
Art. 35	Art. 19	Adapted
Art. 36 par. 1	Art. 34 par. 3	Amended
Art. 36 par. 2	Art. 34 par. 4	Amended
Art. 36 par. 3		New
Art. 37	Art. 27	Amended
Art. 38	Art. 29	
Art. 39 par. 1	Art. 4 par. 1	
Art. 39 par. 2 and 3	Art. 20 par. 1 and 2	
Art. 40 par. 1	Art. 22 par. 1	Amended
Art. 40 par. 2	Art. 22 par. 2	Amended
Art. 40 par. 3	Art. 22 par. 4	
Art. 40 par. 4	Art. 30 par. 9	Adapted
Art. 41 par. 1	Art. 21 par. 1	
Art. 41 par. 2(a) and (b)	Art. 21 par. 2(a) and (b)	Adapted
Art. 41 par. 2(c)	Art. 22 par. 3, 1st sentence	
Art. 41 par. 2, 2nd subparagraph	Art. 22 par. 3, 2nd sentence	
Art. 42 par. 1	Art. 24 par. 1	Adapted
Art. 42 par. 2	Art. 24 par. 2	Adapted
Art. 42 par. 3	Art. 24 par. 3, 1st to 3rd sentences	Adapted
Art. 42 par. 4	Art. 24 par. 3, 4th sentence	Adapted
Art. 42 par. 5	Art. 24 par. 4	Adapted
Art. 43 par. 1, 1st and 2nd subparagraphs		New
Art. 43 par. 1, 3rd subparagraph	Art. 25(2) in fine	
Art. 43 par. 2, 1st subparagraph		New
Art. 43 par. 2, 2nd subparagraph	Art. 25(3), 1st sentence	Amended
Art. 43 par. 2, 3rd subparagraph	Art. 25 par. 3, 2nd sentence	Adapted

This Directive	Directive 93/38/EEC	
	Art. 25 par. 3, 3rd sentence	Deleted
Art. 43 par. 3	Art. 25 par. 5	Amended
Art. 43 par. 4	Art. 25 par. 4	Adapted
Art. 43 par. 5		New
Art. 43 par. 6	Art. 25 par. 1	
Art. 44 par. 1		New
Art. 44 par. 2	Art. 26 par. 1, 1st subparagraph, 1st sentence	
Art. 44 par. 3	Art. 26 par. 2	Adapted
Art. 44 par. 4	Art. 26 par. 1, 2nd and 3rd sentences and 2nd subparagraph	Adapted
Art. 44 par. 5 to 8		New
Art. 44 par. 9	Art. 28 par. 3	Amended
Art. 44 par. 10		New
Art. 45 par. 1	Art. 28 par. 1	Amended
Art. 45 par. 2	Art. 28 par. 2	
Art. 46 par. 1	Art. 28 par. 5	Amended
Art. 46 par. 2, 1st sentence	Art. 28 par. 4, 1st sentence	
Art. 46 par. 2, 2nd sentence		New
Art. 46 par. 2, 3rd sentence	Art. 28 par. 4, 2nd sentence	Amended
Art. 46 par. 2(a) to (d) and (f)	Art. 28 par. 4(a) to (d) and (f)	Adapted
Art. 46 par. 2(e)	Art. 28 par. 4(e)	Amended
Art. 46 par. 3(a) to (h)	Art. 21 par. 2(c)	Adapted
Art. 46 par. 3(i)		New
Art. 47 par. 1	Art. 28 par. 6, 1st and 2nd sentences and 1st indent	Amended
Art. 47 par. 2	Art. 28 par. 6, 2nd and 4th indented	Amended
Art. 47 par. 3	Art. 28 par. 6, 3rd indent	Amended
Art. 47 par. 4		New
Art. 48 par. 1	Art. 41 par. 3	Amended
Art. 48 par. 2, 1st subparagraph	Art. 41 par. 4, 1st subparagraph	Amended

This Directive	Directive 93/38/EEC	
Art. 48 par. 2, 2nd subparagraph	Art. 41 par. 4, 2nd subparagraph	
Art. 48 par. 3	Art. 30 par. 4	
Art. 48 par. 4	Art. 30 par. 6	
Art. 48 par. 5	Art. 30 par. 8	
Art. 49 par. 1	Art. 41 par. 1	Amended
Art. 49 par. 2	Art. 41 par. 2	
Art. 50		New
Art. 51 par. 1	Art. 30 par. 5	Amended
Art. 51 par. 2	Art. 32	Amended
Art. 52 par. 1	Art. 30 par. 1	
Art. 52 par. 2	Art. 30 par. 2	Amended
Art. 52 par. 3	Art. 30 par. 3	
Art. 52 par. 4	Art. 30 par. 7	
Art. 52 par. 5	Art. 21 par. 3	
	Art. 21 par. 5	Deleted
Art. 53 par. 1		New
Art. 53 par. 2	Art. 31 par. 1	
Art. 53 par. 3	Art. 31 par. 3	Adapted
Art. 53 par. 4	Art. 31 par. 2	Adapted
Art. 54 par. 1	Art. 34 par. 1	
Art. 54 par. 2 to 5	Art. 34 par. 2	Amended
	Art. 35 par 1. and 2	Deleted
Art. 55, 1st subparagraph	Art. 34 par. 5, 1st subparagraph	Adapted
Art. 55, 2nd subpragraph	Art. 34 par. 5, 2nd subparagraph	Amended
Art. 55, 3rd subparagraph	Art. 34 par. 5, 3rd subparagraph	Amended
Art. 56 par. 1 and 2	Art. 36 par 1 and 2	
Art. 56 par. 3	Art. 36 par 3 and 4	Adapted
Art. 56 par 4 and 5	Art. 36 par 5 and 6	
Art. 57	Art. 37	Adapted
Art. 58 par. 1	Art. 23 par. 3	

This Directive	Directive 93/38/EEC	
Art. 58 par. 2	Art. 23 par. 4	
Art. 59 par 1 and 2	Art. 23 par 1 and 2	Amended
Art. 60 par. 1 and 2	Art. 6 par. 1 and 3	Adapted
Art. 60 par. 3	Art. 12	Amended
Art. 60 par. 4		New
Art. 61 par. 1, 1st subparagraph	Art. 21 par. 4	Amended
Art. 61 par. 1, 2nd and 3rd subparagraph	Art. 25 par. 2	Adapted
Art. 61 par. 2	Art. 24 par. 1	Adapted
Art. 61 par. 3	Art. 24 par. 2	Amended
Art. 61 par. 4, 1st subparagraph		New
Art. 61 par. 4, 2nd subparagraph	Art. 25 par. 3, 1st sentence	Adapted
Art. 61 par. 5	Art. 25 par. 5	Amended
Art. 61 par. 6	Art. 25 par. 4	Adapted
Art. 62		New
Art. 63 par. 1	Art. 4 par. 1	Adapted
Art. 63 par. 2 and 3	Art. 23 par. 5 and 6	
Art. 64	Art. 42	Amended
	Art. 39	Deleted
Art. 65 par. 1	Art. 40 par. 5	Amended
Art. 65 par. 2		New
Art. 66 par. 1, 1st subparagraph	Art. 14 par. 15, 1st sentence	Amended
Art. 66 par. 1, 2nd subparagraph	Art. 14 par. 15, 2nd sentence	Amended
Art. 66 par. 2, 1st subparagraph		New
Art. 66 par. 2, 2nd subparagraph	Art. 14 par. 14, 1st and 2nd sentences	Amended
Art. 66 par. 23, 3rd subparagraph	Art. 14 par. 16	Amended
Art. 66 par. 3	Art. 14 par. 14, 3rd sentence and par. 15, 3rd sentence	Adapted
Art. 67 par. 1, point (a)	Art. 40 par. 1	Amended
Art. 67 par. 1, point (b)	Art. 40 par. 2	Adapted
Art. 67 par. 1, point (c)	Art. 40 par. 3	Amended

This Directive	Directive 93/38/EEC	
Art. 67 par. 1, point (d)		New
Art. 67 par. 1, point (e)		New
Art. 67 par. 2	Art. 40 par. 4	Adapted
	Art. 43 and Art. 44	Deleted
Annexes I to IX	Annexes I to IX	
Annex X		New
Annex XI	Annex XI	Adapted
Annexes XII to XV	Annexes XII to XV	Adapted
Annex XVI A	Annex XVI A	Amended
Annex XVI B	Annex XVI B	Adapted
Annexes XVII and XVIII	Annexes XVII and XVIII	
Annex XIX, point 1.1		New
Annex XIX, point 2.3	Art. 25 par. 2	Amended
Annex XIX, points 1.3		New
Annex XIX, points 2 and 3		New
Annex XX, point 1	Art. 1 par. 8	Amended
Annex XX, point 2, 1st sentence	Art. 1 par. 9	Adapted
Annex XX, point 2, 1st indent		New
Annex XX, point 2, 2nd indent	Art. 1 par. 10	Amended
Annex XX, point 2, 3rd indent		New
Annex XX, point 3	Art. 1 par. 12	Amended
Annex XX, point 4	Art. 1 par. 11	
	Art. 1 par. 13	Deleted
Annex XXI		New